Chapter 21A.28
DEVELOPMENT STANDARDS - ADEQUACY OF PUBLIC FACILITIES AND SERVICES

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21A.28.010 Purpose. The purpose of this chapter is to ensure that public facilities and services necessary to support development are adequate or will be provided in a timely manner consistent with the Public Facilities and Services planning goal of the Washington State Growth Management Act of 1990 by:

A. Specifying the on-site and off-site facilities and services that must be in place or otherwise assured of timely provision prior to development;

B. Allocating the cost of those facilities and services fairly; and

C. Providing a general framework for relating development standards and other requirements of this code to:

1. Adopted service level standards for public facilities and services;

2. Procedural requirements for phasing development projects to ensure that services are provided as development occurs; and

3. The review of development permit applications. (Ord. 10870 § 511, 1993).

21A.28.020 General requirements.

A. All new development proposals including any use, activity or structure allowed by K.C.C. chapter 21A.08 that requires King County approval shall be adequately served by the following facilities and services prior to the time of occupancy, recording or other land use approval, as further specified in this chapter:

1. Sewage disposal;
2. Water supply;
3. Surface water management;
4. Roads and access;
5. Fire protection service; and
6. Schools.

B. All new development proposals for building permits, plats, short plats, urban planned developments, fully contained communities and binding site plans, that will be served by a sewer or water district, shall include a certificate of water availability and a certificate of sewer availability to demonstrate compliance with this chapter and other provisions of the King County Code, the King County Comprehensive Plan and the Growth Management Act.

C. Regardless of the number of sequential permits required, the provisions of this chapter shall be applied only once to any single development proposal. If changes and modifications result in impacts not considered when the proposal was first approved, the county shall consider the revised proposal as a new development proposal. (Ord. 13694 § 91, 1999: Ord. 11621 § 83, 1994: Ord. 10870 § 512, 1993).

21A.28.030 Adequate sewage disposal. All new development shall be served by an adequate public or private sewage disposal system, including both collection and treatment facilities as follows:

A. A public sewage disposal system is adequate for a development proposal provided that:

1. For the issuance of a building permit, preliminary plat or short plat approval or other land use approval, the site of the proposed development is or can be served by an existing disposal system consistent with K.C.C. Title 13, and the disposal system has been approved by the department as being consistent with applicable state and local design and operating guidelines;

2. For the issuance of a certificate of occupancy for a building or change of use permit, the approved public sewage disposal system as set forth in subsection A.1 of this section is installed to serve each building or lot;

3. For recording a final plat, final short plat or binding site plan, the approved public sewage disposal system set forth in subsection A.1 of this section shall be installed to serve each lot respectively; or a bond or similar security shall be deposited with King County for the future installation of an adequate sewage disposal system. The bond may be assigned to a utility to assure the construction of the facilities within two years of recording; and

4. For a zone reclassification or urban planned development permit, the timing of installation of required sewerage improvements shall be contained in the approving ordinance as specified in K.C.C. 20.24.230; and

B. A private individual sewage system is adequate, if an on-site sewage disposal system for each individual building or lot is installed to meet the requirements and standards of the department of public health as to lot size, soils and system design prior to issuance of a certificate of occupancy for a building or change of use permit.(Ord. 13625 § 20, 1999: Ord. 11621 § 84, 1994: Ord. 10870 § 513, 1993).

21A.28.040 Adequate water supply. All new development shall be served by an adequate public or private water supply system as follows:

A. A public water system is adequate for a development proposal only if:

1. For the issuance of a building permit, preliminary plat approval or other land use approval, the applicant demonstrates that the existing water supply system available to serve the site:

a. complies with the applicable planning, operating and design requirements of:

(1) chapters WAC 246-290 and 246-291;

(2) K.C.C. chapters 14.42 and 14.44 and K.C.C. Title 17;

(3) coordinated water system plans;

(4) K.C.C. Titles 12 and 13 and other applicable rules of the King County board of health;

(5) applicable rules of the Washington state Board of Health, Department of Health, Utilities and Transportation Commission and Department of Ecology;

(6) applicable provisions of King County groundwater management plans and watershed plans;

(7) applicable provisions of the King County Comprehensive Plan and development regulations; and

(8) any limitation or condition imposed by the county-approved comprehensive plan of the water purveyor;

b. The proposed improvements to an existing water system have been reviewed by the department and determined to comply with the design standards and conditions specified in subsection A.1.a. of this section; and

c. A proposed new water supply system has been reviewed by the department and determined to comply with the design standards and conditions specified in subsection A.1.a. of this section;

2. Before issuance of a certificate of occupancy for a building or change of use permit, the approved public water system and any system improvements in subsection A.1. of this section are installed to serve each building or lot respectively;

3. For recording a final plat, final short plat or binding site plan, either the approved public water supply system or system improvements in subsection A.1. of this section are installed to serve each lot or a bond or similar security shall be deposited with King County and may be assigned to a purveyor to assure the construction of required water facilities in Group A systems as defined by board of health regulations, within two years of recording; and

4. For a zone reclassification or urban planned development permit, the timing of installation of required water system improvements is included in the approving ordinance as specified in K.C.C. 20.24.230.

B. An on-site individual water system is adequate and the plat or short plat may receive preliminary and final approval, and a building or change of use permit may be issued as provided in K.C.C. 13.24.138 and 13.24.140. (Ord. 15032 § 36, 2004: Ord. 10870 § 514, 1993).

21A.28.050 Surface water management. All new development shall be served by an adequate surface water management system as follows:

A. The proposed system is adequate if the development proposal site is served by a surface water management system approved by the department as being consistent with the design, operating and procedural requirements of the King County Surface Water Design Manual and K.C.C. Title 9;

B. For a subdivision, zone reclassification or urban planned development, the phased installation of required surface water management improvements shall be stated in the approving ordinance as specified in K.C.C. 20.24.230. Such phasing may require that a bond or similar security be deposited with King County; and

C. A request for an adjustment of the requirements of the Surface Water Design Manual and K.C.C. Title 9 shall be reviewed in accordance with K.C.C. 9.04.050 and does not require a variance from this title unless relief is requested from a building height, setback, landscaping or other development standard in K.C.C. chapters 21A.12, 21A.14, 21A.16, 21A.18, 21A.20, 21A.22, 21A.24, 21A.26, 21A.28, 21A.30. (Ord. 15051 § 212, 2004: Ord. 10870 § 515, 1993).

21A.28.060 Adequate roads.

A. All new development shall be served by adequate roads. Roads are adequate if the development's traffic impacts on surrounding public roads are acceptable under the level-of-service standards and the compliance procedures established in K.C.C. Title 14.

B. The renewal of permits or the issuance of a new permit for existing uses constitutes a new development proposal only if it will generate additional traffic above that currently generated by the use.

C. A variance request from the road cross-section or construction standards established by K.C.C. Title 14, Roads and Bridges, shall be reviewed as set forth in K.C.C. 14.42.060 and does not require a variance from this Title unless relief is requested from a building height, setback, landscaping or other development standard set forth in K.C.C. 21A.12 through K.C.C. 21A.30. (Ord. 11621 § 85, 1994: Ord. 10870 § 516, 1993).

21A.28.120 Adequate vehicular access. All new development shall be served by adequate vehicular access as follows:

A. The property upon which the development proposed is to be located has direct access to:

1. A public or private street that meets county road standards or is formally declared acceptable by the county road engineer; or

2. The property has access to such a street over a private driveway approved by the county;

B. The proposed circulation system of a proposed subdivision, short subdivision or binding site plan shall intersect with existing and anticipated streets abutting the site at safe and convenient locations, as determined by the department and the county road engineer; and

C. Every lot upon which one or more buildings is proposed to be erected or traffic generating use is proposed to be established, shall establish safe access as follows:

1. Safe passage from the street right-of-way to building entrances for transit patrons and other pedestrians, in accordance with the design standards set forth in K.C.C. 21A.18;

2. Direct access from the street right-of-way, fire lane or a parking space to any part of the property as needed to provide public services in accordance with adopted standards (e.g. fire protection, emergency medical service, mail delivery or trash collection); and

3. Direct access from the street right-of-way, driveway, alley or other means of ingress/egress approved by King County, to all required off-street parking spaces on the premises. (Ord. 10870 § 522, 1993).

21A.28.130 Adequate fire protection. All new development shall be served by adequate fire protection as set forth below:

A. The site of the development proposed is served by a water supply system that provides at least minimum fire flow and a, road system or fire lane system that provides life safety/rescue access, and other fire protection requirements for buildings as required by K.C.C. Title 17, Fire Code and K.C.C. Title 16, Building and Construction Standards;

B. For a zone reclassification or Urban planned development, the timing of installation of required fire protection improvements shall be stated in the approving ordinance as specified in K.C.C. 20.24.230, secured with a bond or similar security, and deposited with King County; and

C. A variance request from the requirements established by K.C.C. Title 17, Fire Code, shall be reviewed as set forth in K.C.C. 17.08.090 or K.C.C. 17.10.040, and/or in Article 2 of the currently adopted edition of the Uniform Fire Code and does not require a variance from this title unless relief is requested from a building height, setback, landscaping or other development standard set forth in K.C.C. 21A.12 through K.C.C. 21A.30. (Ord. 10870 § 523, 1993).

21A.28.140 School concurrency - Applicability and relationship to fees.

A. The school concurrency standard set out in Section 21A.28.160 shall apply to applications for preliminary plat or Urban Planned Development (UPD) approval, mobile home parks, requests for multifamily zoning, and building permits for multifamily housing projects which have not been previously evaluated for compliance with the concurrency standard.

B. The county's finding of concurrency shall be made at the time of preliminary plat or UPD approval, at the time that a request to actualize potential multifamily zoning is approved, at the time a mobile home park site plan is approved, or prior to building permit issuance for multifamily housing projects which have not been previously established for compliance with the concurrency standard. Once such a finding has been made, the development shall be considered as vested for purposes of the concurrency determination.

C. Excluded from the application of the concurrency standard are:

1. building permits for individual single family dwellings;

2. any form of housing exclusively for senior citizens, including nursing homes and retirement centers;

3. shelters for temporary placement, relocation facilities and transitional housing facilities.;

4. Replacement, reconstruction or remodeling of existing dwelling units;

5. Short subdivisions;

6. Building permits for residential units in preliminary planned unit developments which were under consideration by King County on January 22, 1991;

7. Building permits for residential units in recorded planned unit developments approved pursuant to K.C.C. Title 21 that have not yet expired per K.C.C. 21.56.060;

8. Building permits applied for by December 31, 1993, related to rezone applications to actualize potential zoning which were under consideration by King County on January 22, 1991;

9. Building permits applied for by December 31, 1993, related to residential development proposals for site plan review to fulfill P-Suffix requirements of multifamily zoning which were under consideration by King County on January 22, 1991; and

10. Any residential building permit for any development proposal for which a concurrency determination has already been made pursuant to the terms of K.C.C. Title 21A.

D. All of the development activities which are excluded from the application of the concurrency standard are subject to school impact fees imposed pursuant to Title 27.

E. The assessment and payment of impact fees are governed by and shall be subject to the provisions in K.C.C. Title 27 addressing school impact fees.

F. A certification of concurrency for a school district shall not preclude the county from collecting impact fees for the district. Impact fees may be assessed and collected as long as the fees are used to fund capital and system improvements needed to serve the new development, and as long as the use of such fees is consistent with the requirements of Chapter 82.02 RCW and this chapter. Pursuant to Chapter 82.02 RCW, impact fees may also be used to recoup capital and system improvement costs previously incurred by a school district to the extent that new growth and development will be served by the previously constructed improvements or incurred costs. (Ord. 11621 § 87, 1994: 11157 § 25, 1993: Ord. 10870 § 524, 1993).

21A.28.150 Findings, recommendations, and decisions regarding school capacities.

A. In making a threshold determination pursuant to SEPA, the director and/or the hearing examiner, in the course of reviewing proposals for residential development including applications for plats or UPD's, mobile home parks, or multi-family zoning, and multifamily building permits, shall consider the school district's capital facilities plan as adopted by the council.

B. Documentation which the district is required to submit pursuant to section 21A.28.152 or Title 20. shall be incorporated into the record in every case without requiring the district to offer such plans and data into the record. The school district is also authorized to present testimony and documents demonstrating a lack of concurrency in the district and the inability of the district to accommodate the students to be generated by a specific development.

C. Based upon a finding that the impacts generated by the plat, the UPD, mobile home park or the multi-family development were generally not anticipated at the time of the last council review and approval of a school district capital plan and were not included in the district's long-range forecast, the director may require or recommend phasing or provision of the needed facilities and/or sites as appropriate to address the deficiency or deny or condition approval, consistent with the provisions of this chapter, the State Subdivision Act, and the State Environmental Policy Act.

D. Determinations of the examiner or director regarding concurrency can be appealed only pursuant to the provisions for appeal of the development permit process for which the determination has been made. Where no other administrative appeal process is available, an appeal may be taken to the hearing examiner using the appeal procedures for variances. Any errors in the formula identified as a result of an appeal should be referred to the council for possible modifications.

E. Where the council has not adopted an impact fee ordinance for a particular school district, the language of this section shall not affect the authority or duties of the examiner or the director pursuant to the State Environmental Policy Act or the State Subdivision Act. (Ord. 11621 § 88, 1994: 11157 § 26, 1993: Ord. 10870 § 525, 1993).

21A.28.152 Submission of district capital facilities plan and data.

A. On an annual basis, each school district shall submit the following materials to the School Technical Review Committee created pursuant to Section 21A.28.154:

1. The district's capital facilities plan adopted by the school board which is consistent with the Growth Management Act.

2. The district's enrollment projections over the next six (6) years, its current enrollment and the district's enrollment projections and actual enrollment from the previous year.

3. The district's standard of service.

4. An inventory and evaluation of district facilities which address the district's standard of service.

5. The district's overall capacity over the next six (6) years, which shall be a function of the district's standard of service as measured by the number of students which can be housed in district facilities.

B. To the extent that the district's standard of service reveals a deficiency in its current facilities, the district's capital facilities plan must demonstrate a plan for achieving the standard of service, and must identify the sources of funding for building or acquiring the necessary facilities to meet the standard of service.

C. Facilities to meet future demand shall be designed to meet the adopted standards of service. If sufficient funding is not projected to be available to fully fund a capital plan which meets the standard of service, the district's capital plan should document the reason for the funding gap.

D. If an impact fee ordinance has been adopted on behalf of a school district, the district shall also submit an annual report to the School Technical Review Committee showing the capital improvements which were financed in whole or in part by the impact fees. (Ord. 11621 § 89, 1994).

21A.28.154 School Technical Review Committee.

A. There is hereby created a School Technical Review Committee (STRC) within King County. The Committee shall consist of 4 county staff persons, one each from the department of development and environmental services, the planning and community development division, the office of financial management and the county council.

B. The Committee shall be charged with reviewing each school district's capital facilities plan, enrollment projections, standard of service, the district's overall capacity for the next six (6) years to ensure consistency with the Growth Management Act, King County Comprehensive Plan, and adopted community plans, and the district's calculation and rationale for proposed impact fees.

C. Notice of the time and place of the Committee meeting where the district's documents will be considered shall be provided to the district.

D. At the meeting where the Committee will review or act upon the district's documents, the district shall have the right to attend or to be represented, and shall be permitted to present testimony to the Committee. Meetings shall also be open to the public.

E. In its review, the Committee shall consider the following factors:

1. Whether the district's forecasting system for enrollment projections has been demonstrated to be reliable and reasonable.

2. The historic levels of funding and voter support for bond issues in the district;

3. The inability of the district to obtain the anticipated state funding or to receive voter approval for district bond issues;

4. An emergency or emergencies in the district which required the closing of a school facility or facilities resulting in a sudden and unanticipated decline in districtwide capacity; and

5. The standards of service set by school districts in similar types of communities. While community differences will be permitted, the standard established by the district should be reasonably consistent with the standards set by other school districts in communities of similar socioeconomic profile.

6. The Committee shall consider the standards identified by the state concerning the ratios of certificated instructional staff to students.

F. In the event that the district's standard of service reveals a deficiency in its current facilities, the Committee shall review the district's capital facilities plan to determine whether the district has identified all sources of funding necessary to achieve the standard of service.

G. The district in developing the Financing Plan Component of the Capital Facilities Plan shall plan on a six-year horizon and shall demonstrate its best efforts by taking the following steps:

1. Establish a six-year financing plan, and propose the necessary bond issues and levies required by and consistent with that plan and as approved by the school board and consistent with RCW 28A.53.020 and RCW 84.52.052 and .056 as amended; and

2. Apply to the state for funding, and comply with the state requirement for eligibility to the best of the district's ability.

H. The Committee is authorized to request the school district to review and to resubmit its capital facilities plan, or to establish a different standard of service, or to review its capacity for accommodating new students, under the following circumstances:

1. The standard of service established by the district is not reasonable in light of the factors set forth in subsection E of this section.

2. The Committee finds that the district's standard of service cannot reasonably be achieved in light of the secured financial commitments and the historic levels of support in the district; or

3. Any other basis which is consistent with the provisions of this section.

I. The Committee shall prepare and submit an annual report to the King County council for each school district recommending a certification of concurrency in the district, except as provided in Subsection L of this section using the school concurrency standard as set forth in K.C.C. 21A.28.160. If a school district fails to submit its capital facilities plan for review by the STRC, King County shall assume the district has adequate capacity to accommodate growth for the following six years.

J. The Committee shall submit copies of its recommendation of concurrency for each school district to the director of DDES, to the hearing examiner, and to the district.

K. The Committee shall recommend to the council a comprehensive plan amendment adopting the district's capital facilities plan as part of the comprehensive plan, for any plan which the Committee concludes accurately reflects the district's facilities status.

L. In the event that after reviewing the district's capital facilities plan and other documents, the Committee is unable to recommend certifying concurrency in a school district, the Committee shall submit a statement to the council, the director and the hearing examiner stating that the Committee is unable to recommend certifying concurrency in a specific school district. The Committee shall recommend to the executive that he propose to the council, amendments to the land use element of the King County Comprehensive Plan or amendments to the development regulations implementing the plan to more closely conform county land use plans and school facilities plans, including but not limited to requiring mandatory phasing of plats, UPDs or multifamily development located within the district's boundary. The necessary draft amendments shall accompany such recommendations. (Ord. 11621 § 90, 1994).

21A.28.156 Annual council review.

A. On at least an annual basis, the King County council shall review the reports prepared by the Committee and certify the district's plans. The review may occur in conjunction with any update of the Facilities and Services chapter of the King County Comprehensive Plan proposed by the Committee.

B. The council shall review and consider any proposal(s) submitted by the Committee for amending the land use policies of the King County Comprehensive Plan, or the development regulations implementing the plan, including but not limited to requiring mandatory phasing of plats, UPDs or multifamily development when the Committee is unable to recommend a certification of concurrency in a specific school district. Any proposed amendments to the comprehensive plan or development regulations shall be subject to the public hearing and other procedural requirements set out in Title 20 or 21A, as applicable.

C. The council may require the Committee to submit proposed amendments or may itself initiate amendments to the land use policies of the King County Comprehensive Plan, or amendments to the development regulations implementing the plan. (Ord. 11621 § 91, 1994).

21A.28.160 School concurrency standard.

A. Schools shall be considered to have been provided concurrently with the development which will impact the schools if:

1. The permanent and interim improvements necessary to serve the development are planned to be in place at the time the impacts of development are expected to occur; or

2. The necessary financial commitments are in place to assure the completion of the needed improvements to meet the district's standard of service within 3 years of the time that the impacts of development are expected to occur. Necessary improvements are those facilities identified by the district in its capital facilities plan as reviewed and adopted by King County.

B. Any combination of the following shall constitute the "necessary financial commitments" for the purposes of subsection A.

1. The district has received voter approval of and/or has bonding authority;

2. The district has received approval for federal, state, or other funds;

3. The district has received a secured commitment from a developer that the developer will construct the needed permanent school facility, and the school district has found such facility to be acceptable and consistent with its capital facilities plan; and/or

4. The district has other assured funding, including but not limited to school impact fees which have been paid.

C. Compliance with this concurrency requirement of this section shall be sufficient to satisfy the provisions of RCW 58.17.060 and RCW 58.17.110. (Ord. 10870 § 526, 1993).

21A.28.180 Credit for improvements. Whenever a development is granted approval subject to a condition that the development proponent actually provide a school facility acceptable to the district, the development proponent shall be entitled to a credit for the actual cost of providing the facility, against the fee that would be chargeable under the formula provided by K.C.C. Title 27. The cost of construction shall be estimated at the time of approval, but must be documented and the documentation confirmed after the construction is completed to assure that an accurate credit amount is provided. If construction costs are less than the calculated fee amount, the difference remaining shall be chargeable as a school impact fee. (Ord. 10870 § 528, 1993).

Chapter 21A.30
DEVELOPMENT STANDARDS - ANIMALS, HOME OCCUPATION, HOME INDUSTRY

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21A.30.010 Purpose. The purpose of this chapter is to enhance and preserve the compatibility between neighboring properties by regulating the scope and intensity of accessory uses or activities. (Ord. 10870 § 529, 1993).

21A.30.020 Animal regulations - Small animals. The raising, keeping, breeding or fee boarding of small animals are subject to K.C.C. 11.04, Animal Control Regulations, and the following requirements:

A. Small animals which are kept indoors as household pets in aquariums, terrariums, cages or similar containers shall not be limited in number, except as may be provided in Title 11. Other small animals excluding cats kept indoors as household pets shall be limited to five, of which not more than three may be unaltered cats or dogs. Cats kept indoors shall not be limited in numbers.

B. Other small animals kept outside, including adult cats and dogs, shall be limited to three per household on lots of less than 20,000 square feet, five per household on lots of 20,000 to 35,000 square feet, with an additional 2 per acre of site area over 35,000 square feet up to a maximum of 20, unless more are allowed as an accessory use pursuant to paragraph E., provided that all unaltered animals kept outdoors must be kept on a leash or in a confined area, except as authorized for a hobby kennel or cattery or commercial kennel or cattery pursuant to K.C.C. 11.04.

C. Excluding kennels and catteries, the total number of unaltered adult cats and/or dogs per household shall not exceed three.

D. Animals considered to be household pets shall be treated as other small animals pursuant to K.C.C. 21A.30.020E when they are kept for commercial breeding, boarding or training.

E. Small animals and household pets kept as an accessory use outside the dwelling, shall be raised, kept or bred only as an accessory use on the premises of the owner, or in a kennel or cattery, subject to the following limitations:

1. Birds shall be kept in an aviary or loft that meets the following standards:

a. The aviary or loft shall provide 1/2 square foot for each parakeet, canary or similarly sized birds, 1 square foot for each pigeon, small parrot or similarly sized bird, and 2 square feet for each large parrot, macaw or similarly sized bird.

b. Aviaries or lofts shall not exceed 2,000 square feet, provided this limit shall not apply in rural, forestry, or agricultural zones.

c. The aviary is set back at least 10 feet from any property line, and 20 feet from any dwelling unit.

2. Small animals other than birds shall be kept according to the following standards:

a. The minimum site area shall be one-half acre if more than 3 small animals are being kept.

b. All animals shall be confined within a building, pen, aviary or similar structure.

c. Any covered structure used to house or contain such animals shall maintain a distance of not less than 10 feet to any property line, except structures used to house mink and fox shall be a distance of not less than 150 feet.

d. Poultry, chicken, squab, and rabbits are limited to a maximum of one animal per one square foot of structure used to house such animals, up to a maximum of 2000 square feet; provided that this maximum structure size limit shall not apply in rural, forestry, or agricultural zones.

e. Hamsters, nutria and chinchilla are limited to a maximum of one animal per square foot of structure used to house such animals, up to a maximum of 2000 square feet; provided that this maximum structure size limit shall not apply in rural, forestry, or agricultural zones.

f. Mink and fox are permitted only on sites having a minimum area of five acres.

g. Beekeeping is limited as follows:

(1) Beehives are limited to 50 on sites less than five acres;

(2) The number of beehives shall not be limited on sites of five acres or greater;

(3) Colonies shall be maintained in movable-frame hives at all times;

(4) Adequate space shall be provided in each hive to prevent overcrowding and swarming;

(5) Colonies shall be requeened following any swarming or aggressive behavior;

(6) All colonies shall be registered with the County Extension agent prior to April 1st of each year, on a state registration form acceptable to the county; and

(7) Abandoned colonies, diseased bees, or bees living in trees, buildings, or any other space except in movable-frame hives shall constitute a public nuisance, and shall be abated as set forth in K.C.C. 21A.50, Enforcement;

3. Kennels and catteries are subject to the following requirements:

a. For kennels located on residential zoned sites:

(1) The minimum site area shall be five acres; and

(2) Structures housing animals and outdoor animal runs shall be a minimum distance of 100 feet from property lines abutting residential zones;

b. For kennels located on non-residential zoned sites, run areas shall be completely surrounded by an eight foot solid wall or fence, and be subject to the requirements in K.C.C. 11.04.060; and

c. Catteries shall be on sites of 35,000 square feet or more, and buildings used to house cats shall be a minimum distance of 50 feet from property lines abutting residential zones. (Ord. 14429 § 5, 2002: Ord. 11157 § 27, 1993: Ord. 10870 § 530, 1993).

21A.30.030 Animal regulations - Livestock - Purpose. The primary purpose of sections 21A.30.040 - .075 is to support the raising and keeping of livestock in the county in a manner that minimizes the adverse impacts of livestock on the environment particularly with regard to their impacts on water quality and salmonid fisheries habitat in King County watersheds. Maintaining and enhancing the viability of fisheries, livestock-raising and farming are essential to the long-term economic vitality, recreation opportunities and quality of life in rural and resource lands of King County. The following sections establish regulations which set livestock densities and require implementation of best management practices for minimizing non-point pollution from livestock in a manner that recognizes the need for integrated resource management within King County watersheds. They are intended to be consistent with livestock welfare; however, these concerns are more appropriately addressed through K.C.C. 11.04. (Ord. 11168 § 1, 1993).

21A.30.040 Animal regulations — livestock — densities. The raising, keeping, breeding or fee boarding of livestock are subject to K.C.C. chapter 11.04, Animal Control Regulations, and the following requirements:

A. The minimum lot size on which large livestock may be kept shall be 20,000 square feet, provided that the amount of site area available for use by the livestock may be less than 20,000 square feet and provided further that the portion of the total lot area used for confinement or grazing meets the requirements of this section.

B.1. The maximum number of livestock shall be as follows:

a. Commercial dairy farms shall meet the requirements of chapter 90.64 RCW or a livestock management component of a farm management plan adopted in accordance with K.C.C. 21A.30.045;

b. Six resident animal units per gross acre in stables, barns and other livestock operations with covered confinement areas, if no more than three animal units per gross acre are allowed to use uncovered grazing or confinement areas on a full time basis, and the standards in K.C.C. 21A.30.060 are met or a livestock management component of a farm management plan is implemented and maintained in accordance with K.C.C. 21A.30.045. Higher densities may be allowed subject to the conditional use permit process to confirm compliance with the management standards. The conditional use permit process is not required for existing operations that operate with higher densities, in accordance with K.C.C. 21A.30.060 or a livestock management component of a farm management plan is implemented for those operations;

c. Three animal units per gross acre of vegetated site area, if the standards in K.C.C. 21A.30.060 are met or livestock management component of a farm management plan is implemented and maintained in accordance with K.C.C. 21A.30.045; and

d. One animal unit per two acres of vegetated area, not to exceed a total of five animal units, if the standards for storage and handling of manure in K.C.C. 21A.30.060.D. are met.

2. For purposes of this section, an animal unit consists of one adult horse or bovine, two ponies, five small livestock or equivalent thereof excluding sucklings. Miniature horses and feeder calves up to one year of age are considered small livestock. (Ord. 15051 § 213, 2004: Ord. 11168 § 2, 1993: Ord. 11157 § 28, 1993: Ord. 10870 § 532, 1993).

21A.30.045 Animal regulations — livestock management components of farm management plans.

A. To achieve the maximum density allowances using a livestock management component of a farm management plan, the plan must meet the following criteria:

1. The plan is developed as part of a program authorized or approved by King County. Certified Washington state Department of Ecology nutrient management plans that are consistent with all of the criteria of this section may substitute for a livestock management component of a farm management plan for commercial dairy farms. Commercial dairy farms that do not have approved nutrient management plans must meet the requirements of K.C.C 21A.30.060;

2. The plan includes site-specific management measures for minimizing nonpoint pollution from agricultural activities iand for managing wetland and aquatic areas including, but not limited to:

a. livestock watering;

b. grazing and pasture management;

c. confinement area management

d. manure management; and

e. exclusion of animals from aquatic areas and their buffers and wetlands and their buffers with the exception of grazed wet meadows.

3. The plan is implemented within a timeframe established in the plan and maintained so that nonpoint pollution attributable to livestock-keeping is minimized; and

4. A monitoring plan may be required as part of the livestock management component of a farm management plan to demonstrate that there is no significant impact to water quality and salmonid fisheries habitat. Monitoring results shall be available to the King County agriculture program.

B. The livestock management compoent of a farm management plan shall, at a minimum:

1. Generally seek to achieve a twenty-five-foot buffer of diverse, mature vegetation between grazing areas and the ordinary high water mark of all type S and F aquatic areas and the wetland edge of any category I, II or III wetland with the exception of grazed wet meadows, using buffer averaging where necessary to accommodate existing structures. The livestock management component of a farm management plans may vary the width of the buffer of an aquatic area or wetland, and the time and duration of animal exclusion throughout the year, according to guidlines agreed upon by King County and the King Conservation District. The guidelines may support a different buffer width based on both the nature of the farm oepration and the function and sensitivity of the aquatic area or wetland. The plan must include best management practices that avoid having manure accumulate in or within ten feet of type N or O waters. Forested lands being cleared for grazing areas shall comply with the critical area buffers in K.C.C. chapter 21A.24;

2. Assure that drainage ditches on the site do not channel animal waste to aquatic areas and wetlands;

3. Achieve an additional twenty-foot buffer downslope of any confinement areas within two hundred feet of type S and F waters. This requirement may be waived for existing confinement areas on lots of two and one-half acres or less in size if:

a. a minimum buffer of twenty-five feet of diverse, mature vegetation is achieved;

b. manure within the confinement area is removed daily during the winter season from October 15 to April 15, and stored in accordance with K.C.C. 21A.30.060.D; and

c. additional best management practices, as recommended by the King Conservation District, are implemented and maintained; and

4. Include a schedule for implementation.

C. Any deviation from the manure management standards must be addressed in a livestock management component of a farm management plan.

D. A copy of the final plans shall be submitted to the department of natural resources and parks within sixty days of completion.

E. The completed farm management plan may be appealed to the hearing examiner in accordance with K.C.C. 20.24.080. The appeal must be filed within thirty days of submitting the farm management plan [with the] department of natural resources and parks under subsection D. of this section. Appeals may be filed only by the property owner or four members of the King County agriculture commission. Any farm management plan not appealed shall constitute primae facie evidence of compliance with the regulatory provisions of K.C.C. 9.12.035. (Ord. 15051 § 214, 2004: Ord. 14199 § 235, 2001: Ord. 11168 § 3, 1993).

21A.30.060 Animal regulations — livestock management standards. Property owners with farms containing either large livestock at densities greater than one animal unit per two acres, or small livestock at densities greater than five animals per acre, or both, are not required to follow an livestock management plan if the owners adhere to the management standards in subsections A. through G. of this section. This section applies only if farm practices do not result in violation of any federal, state or local water quality standards.

A. To minimize livestock access to aquatic areas, property owners shall utilize the following livestock watering options:

1. The preferred option, which is a domestic water supply, stock watering pond, roof runoff collection system, or approved pumped supply from the aquatic areas so that livestock are not required to enter aquatic areas for their water supply.

2. Livestock access to type S and F waters, including their buffers shall be limited to crossing and watering points that have been addressed by a crossing or watering point plan designed to Natural Resource Conservation Services or King Conservation District specifications that prevent free access along the length of the aquatic areas.

a. Fencing shall be used as necessary to prevent livestock access to sype S and F waters.

b. Bridges may be used, in accordance with K.C.C. chapter 21A.24, in lieu of crossings. Piers and abutments shall not be placed within the ordinary high water mark or top-of-bank, whichever is greater. Bridges shall be designed to allow free flow of flood waters and shall not diminish flood carrying capacity. These bridges may be placed without a county building permit, but the permit waiver shall not constitute any assumption of liability by the county with regard to such bridge or its placement. The waiver of county building permit requirements does not constitute a waiver from other required agency permits.

B. Existing grazing areas not addressed by K.C.C. chapter 21A.24 shall maintain a vegetative buffer of fifty feet from the wetland edge of a category I, II or III wetland, except those wetlands meeting the definition of grazed wet meadows, or the ordinary high water mark of a sype S or F water.

2. Forested lands being cleared for grazing areas shall comply with critical area buffers in K.C.C. chapter 21A.24.

3. The grazing area buffer may be reduced to twenty-five feet where a twenty-five-foot buffer of diverse, mature vegetation already exists. This buffer reduction may not be used when forested lands are being cleared for grazing areas.

4. Fencing shall be used to establish and maintain the buffer unless the buffer is otherwise impenetrable to livestock.

5. Fencing installed in accordance with the 1990 Sensitive Area Ordinance before February 14, 1994, at setbacks other than those specified in subsection B.1. and 2. of this section shall be deemed to constitute compliance with those requirements.

6. Grazing areas within two hundred feet of a type S or F water or category I, II or III wetland shall not be plowed during the rainy season from October 1 through April 30.

7. Grazing areas may extend to the property line, provided that type S or F waters and category I, II and III wetlands adjacent to the property line are buffered in accordance with subsection B.1., 2. or 3. of this section.

C.1. In addition to the buffers in subsection B.1. and 2. of this section, confinement areas located within two hundred feet of anytype S or F waters or category I, II or III, wetlands with the exception of grazed wet meadows shall:

a. have a twenty-foot-wide vegetative filter strip downhill from the confinement area, consisting of heavy grasses or other ground cover with high stem density and that may also include tree cover;

b. not be located in the buffer of any sype S or F water or any wetland buffer required by the critical areas ordinance in effect at the time the confinement area is built, or within fifty feet of the wetland edge of any category I, II or III wetland or the ordinary high water mark of any type S or F water. Fencing shall be used to establish and maintain the buffer except where existing natural vegetation is sufficient to exclude livestock from the buffer. Existing confinement areas that do not meet these requirements shall be modified as necessary to provide the buffers specified in this section within five years of January 1, 2005, though the footprint of existing buildings need not be so modified; and

c. have roof drains of any buildings in the confinement area diverted away from the confinement area.

2. Confinement areas may extend to the property line, if aquatic areas and wetlands adjacent to the property line are buffered in accordance with K.C.C. this subsection C. of this section.

D.1. Manure storage areas shall be managed as follows:

a. Surface flows and roof runoff shall be diverted away from manure storage areas;

b. All manure stockpiled within two hundred feet uphill of any the ordinary high water mark of a type S or F water or the edge of a category I, II or III wetland shall either be covered in a manner that excludes precipitation and allows free flow of air to minimize fire danger or be placed in an uncovered concrete bunker or manure lagoon or held for pickup in a dumpster, vehicle or other facility designed to prevent leachate from reaching any aquatic area or wetland. Concrete bunkers shall be monitored quarterly for the first two years after installation, then annually unless problems were identified in the first two years, in which case quarterly monitoring shall continue and appropriate adjustments shall be made;

c. Manure shall nto be stored in any aquatic area buffer or wetland buffer, with the exception of grazed or tilled wet meadows unless there is no other alternative on the property. Manure shall be stored in a location that avoids having runoff from the manure enter aquatic areas or wetlands. Manure piles shall not be closer than one hundred feet uphill from:

(1) any wetland edg excluding grazed or tilled wet meadows;

(2) the ordinary high water mark of any aquatic area; or

(3) any ditch to which the topography would generally direct runoff from the manure; and

d. The location may be reduced to no closer than fifty fieet if the manure pile is part of an active compost system that is located on an impervious surface to prevent contact with the soil and includes a leachate containment system.

2. Manure shall be spread on fields only during the growing season, and not on saturated or frozen fields.

E. For purposes of this section, "buffer maintenance" means allowing vegetation in the buffer that provides shade for the aquatic area or acts as a filter for storm water entering the aquatic area, other than noxious weeds, to grow to its mature height, though grasses in the buffer may be mowed but not grazed. Grading in the buffer is allowed only for establishment of watering and crossing points, or for other activities permitted in accordance with K.C.C. chapter 21A.24, with the appropriate permits.

F. Properties that have existing fencing already installed at distances other than those specified in these standards, and for which livestock management farm plans have been developed based on the existing fencing locations, shall be deemed to be in compliance with the fencing requirements of these standards. Properties with or without a livestock management component of a farm management plan that complied with the fencing requirements in effect before January 1, 2005, shall have five years from January 1, 2005, to meet the fencing requirements for aquatic areas that were exempt from fencing under ordinances in effect before January 1, 2005.

G. Buffer areas shall not be subject to public access, use or dedication by reason of the establishment of such buffers. (Ord. 15051 § 215, 2004: Ord. 12786 § 4, 1997: Ord. 11168 § 4, 1993: Ord. 10870 § 534, 1993).

21A.30.062 Animal regulations - livestock - building requirements.

A. In residential zones, fee boarding of livestock other than in a legally established stable shall only be as an accessory use to a resident on the subject property.

B. A barn or stable may contain a caretaker's accessory living quarters under the following conditions:

1. Only one accessory living quarter per primary detached dwelling unit, except in the F zone which prohibits accessory living quarters;

2. The accessory living quarter shall not exceed five hundred square feet, and

3. The structure must be constructed in conformance with the State Building Code; and

C. A barn or stable may contain a caretaker's accessory dwelling unit as allowed pursuant to this provisions of this Title relating to accessory dwelling units. (Ord. 14045 § 55, 2001: Ord. 12786 § 5, 1997: Ord. 11168 § 5, 1993).

21A.30.064 Animal regulations - livestock - livestock regulation implementation and monitoring - agriculture commission livestock committee.

A. In order to evaluate the effectiveness of county livestock regulations, the King County agriculture commission shall appoint an Agriculture Commission Livestock Committee to evaluate emerging livestock husbandry issues to recommend appropriate policies, regulations and support programs.

B. The King County agriculture commission shall:

1. Evaluate the effectiveness of farm management plans and management standards, including but not limited to the need for implementation assistance funding, education and monitoring, as provided for in this section;

2. Review the recommendations of the livestock committee and the livestock interdisciplinary team when formulating proposals to ensure that goals of this legislation are being met;

3. Provide a link between government experts and the livestock owners who must implement this legislation;

4. Certify the use of experts to prepare farm management plans, if a property owner chooses not to work with the King Conservation District; and

5. Provide recommendations and guidance as necessary to the King County agriculture commission on livestock issues in regards to duties assigned to the Agriculture Commission.

C. The livestock committee may make recommendations to the King County agriculture commission regarding the need for additional funding mechanisms to support implementation of livestock management practices, and livestock waste management solutions.

D. King County shall utilize as high a percentage of any funds available as possible to provide cost-sharing assistance to farmers in implementation of farm management plans (per K.C.C. 21A.30.050). Assistance to farmers should be allocated to encourage early implementation, by providing greater support to farmers who participate in the first years of the program, and less support in the out years. If follow-up monitoring or a complaint indicates that enforcement procedures are required, and it is determined that farm management plans have not been implemented, funding will be withdrawn and repayment required.

E. Monitoring is a critical element in the evaluation of the effectiveness of farm management practices in minimizing non-point pollution in streams and wetlands. As such, the department of natural resources and parks shall develop and implement a management practice monitoring strategy to identify emerging trends and implementation issues.

F. King County shall utilize a percentage of any funds raised by one of the mechanisms developed pursuant to this section to monitor farm management plans and management standards, to provide information regarding the efficacy of the management measures being implemented. This information shall be used to demonstrate the value of such plans to other farmers, and shall be reported to the King County agriculture commission, for use in development of improved standards for the livestock density legislation. (Ord. 14199 § 236, 2001: Ord. 11168 § 6-8, 1993).

21A.30.066 Animal regulations - Livestock - Education and enforcement.

A. Education. Enforcement of these livestock standards shall initially emphasize achieving compliance with the standards as the primary objective, rather than the collection of fines or penalties. Fines or penalties are appropriate when a property owner or livestock operator has been advised of necessary corrective actions, and has not made those corrections. Where violations of the standards do occur, and such violations are directly linked to identified hazards or the discharge of prohibited contaminants, as enumerated in K.C.C. 9.12.025, code enforcement must emphasize immediate correction of the practices resulting in the hazard or prohibited discharge.

B. Both the property owner and any renter or lessee of the property, hereinafter referred to "livestock operator," shall be held responsible for compliance with these standards.

C. Primae facie evidence. Establishment and adherence to a farm management plan as allowed by K.C.C. 21A.30.050 or the management standards provided by K.C.C. 21A.30.060 shall be prima facie proof of compliance with the regulatory provisions of K.C.C. 9.12.035.

D. Violations of specific standards. The department of development and environmental services shall be responsible for enforcement of the standards set out in this chapter. The surface water management division shall be responsible for enforcement of water quality violations pursuant to K.C.C. Chapter 9.12 for prohibited discharges and hazards. If a specific standard identified in this chapter is not being adhered to, the operator and owner shall be given notice of non-compliance. The notice shall specify what actions must be taken to bring the property into compliance. The operator and owner shall be given 45 days in which to adhere to the management standards of K.C.C. 21A.30.060, or establish a farm management plan pursuant to K.C.C. 21A.30.050 as the owner and/or livestock operator may elect for the purpose of compliance. Should the owner and/or livestock operator fail to bring the property into compliance with the standards, the county, after notice, may commence abatement proceedings and impose civil fines 30 days thereafter, to the extent necessary for compliance. Thereafter, upon exhaustion of any appeals, failure of the operator and owner to comply with any continuing order to abate, the operator and owner shall be subject to civil and criminal penalties, and other procedures, as set forth in this title and K.C.C. Title 23 Enforcement. (Ord. 11168 § 9, 1993).

21A.30.067 Livestock management - Information. Within 180 days of adoption of Ordinance 11168, King County shall publish and distribute information packets to all affected property owners, describing the ordinance in detail. In particular, the information packets shall outline what will be expected of King County residents who maintain livestock, including timelines, funding sources, and phone numbers and addresses of resource agencies. (Ord. 11168 § 10, 1993).

21A.30.068 Livestock management - waste disposal. Within 180 days of adoption of this ordinance, the solid waste division shall develop a pilot program to investigate potential markets for livestock waste from both commercial and non-commercial operations including, but not limited to, as a replacement to chemical fertilizers in King County parks (flowerbeds and fields); for use in commercial silviculture and nursery operations; for use on private property (similar to Woodland Park Zoo's "Zoodoo" program); and for use in publicly or privately operated composting stations. (Ord. 11168 § 11, 1993).

21A.30.070 Existing livestock operations. All existing livestock operations shall either implement a farm management plan or meet the management standards in K.C.C. 21A.30.060, within five years of the adoption date of this title: existing buildings are exempt from this provision. State standards for fecal coliform, turbidity, and nutrients must be met within five years from the date of adoption of this ordinance. The metropolitan services department/water quality division shall monitor stream systems for progress in meeting this goal, and report annually to the council. (Ord. 11168 § 13, 1993: Ord. 10870 § 535, 1993).

21A.30.075 Livestock interdisciplinary team. In order to ensure that livestock standards and management plans are customized as much as possible to the stream conditions in each of the various streams, the King County agriculture commission will, in cooperation with the Washington State Department of Fisheries and the Muckleshoot Indian Tribe, the Snoqualmie Indian Tribe, and other affected Indian tribes, establish a livestock interdisciplinary team consisting of three members, with expertise in fisheries, water quality and animal husbandry, to make specific recommendations to the Conservation District and livestock owners adjacent to the streams with regard to buffer needs throughout the parts of each stream which have livestock operations adjoining such streams. The team shall take into account the recommendations of the adopted Basin Plans and WRIA recommendations, and shall work with the department of natural resources and parks to develop the recommendations. The findings of the interdisciplinary team shall be reported to the King County agriculture commission, which shall assist in the dissemination of the recommendations to owners in the basin. The team shall work initially on those stream systems in which specific problems have been identified and are believed to be livestock related: (Ord. 14199 § 237, 2001: Ord. 11168 § 14, 1993).

21A.30.080 Home occupation in the R and UR zones. In the R and UR zones, residents of a dwelling unit may conduct one or more home occupations as accessory activities, only if:

A. The total area devoted to all home occupations shall not exceed twenty percent of the floor area of the dwelling unit. Areas within garages and storage buildings shall not be considered part of the dwelling unit and may be used for activities associated with the home occupation;

B. All the activities of the home occupation or occupations shall be conducted indoors, except for those related to growing or storing of plants used by the home occupation or occupations;

C. A home occupation or occupations is not limited in the number of employees that remain off-site. No more than one nonresident employee shall be permitted to work on-site for the home occupation or occupations;

D. The following activities are prohibited:

1. Automobile, truck and heavy equipment repair;
2. Autobody work or painting;
3. Parking and storage of heavy equipment; and
4. Storage of building materials for use on other properties;

E. In addition to required parking for the dwelling unit, on-site parking is provided as follows:

1. One stall for each nonresident employed by the home occupations; and
2. One stall for patrons when services are rendered on-site;

F. Sales are limited to:

1. Mail order sales;
2. Telephone, Internet or other electronic commerce sales with off-site delivery; and
3. Items accessory to a service provided to patrons who receive services on the premises;

G. On-site services to patrons are arranged by appointment;

H. The home occupation or occupations use or store a vehicle for pickup of materials used by the home occupation or occupations or the distribution of products from the site, only if:

1. No more than one such a vehicle is allowed; and
2. The vehicle is not stored within any required setback areas of the lot or on adjacent streets; and
3. The vehicle does not exceed an equivalent licensed gross vehicle weight of one ton;

I. The home occupation or occupations do not use electrical or mechanical equipment that results in:

1. A change to the occupancy type of the structure or structures used for the home occupation or occupations;
2. Visual or audible interference in radio or television receivers, or electronic equipment located off-premises; or
3. Fluctuations in line voltage off-premises; and

J. Uses not allowed as home occupations may be allowed as a home industry under K.C.C. chapter 21A.30. (Ord. 15606 § 19, 2006: Ord. 15032 § 37, 2004: Ord. 11621 § 93, 1994: Ord. 10870 § 536, 1993).

21A.30.085 Home occupations in the A, F and RA zones. In the A, F and RA zones, residents of a dwelling unit may conduct one or more home occupations as accessory activities, under the following provisions:

A. The total floor area devoted to all home occupations shall not exceed twenty percent of the dwelling unit. Areas within garages and storage buildings shall not be considered part of the dwelling unit and may be used for activities associated with the home occupation;

B. Total outdoor area of all home occupations shall be permitted as follows:

1. For any lot less than one acre: Four hundred forty square feet; and

2. For lots one acre or greater: One percent of the area of the lot, up to a maximum of five thousand square feet.

C. Outdoor storage areas and parking areas related to home occupations shall be:

1. No less than twenty-five feet from any property line; and

2. Screened along the portions of such areas that can be seen from an adjacent parcel or roadway by the:

a. planting of Type II landscape buffering; or

b. use of existing vegetation which meets or can be augmented with additional plantings to meet the intent of Type II landscaping.

D. A home occupation or occupations is not limited in the number of employees that remain off-site. Regardless of the number of home occupations, the number of nonresident employees is limited to no more than three who work on-site and no more than three who report to the site but primarily provide services off-site.

E. In addition to activities allowed as home occupations by K.C.C. 21A.30.080, the following activities are permitted:

1. Automobile, truck and heavy equipment repair;
2. Autobody work or painting;
3. Parking and storage of heavy equipment; and
4. Storage of building materials for use on other properties;

F. In addition to required parking for the dwelling unit, on-site parking is provided as follows:

1. One stall for each nonresident employed on-site; and
2. One stall for patrons when services are rendered on-site;

G. Sales are limited to:

1. Mail order sales;
2. Telephone, Internet or other electronic commerce sales with off-site delivery;
3. Items accessory to a service provided to patrons who receive services on the premises; and
4. Items grown, produced or fabricated on-site;

H. The home occupation or occupations do not use electrical or mechanical equipment that results in:

1. A change to the occupancy type of the structure or structures used for the home occupation or occupations;

2. Visual or audible interference in radio or television receivers, or electronic equipment located off-premises; or

3. Fluctuations in line voltage off-premises;

I. Uses not allowed as home occupation may be allowed as a home industry under K.C.C. chapter 21A.30; and

J. The home occupation or occupations may use or store vehicles, as follows:

1. The total number of vehicles for all home occupations shall be:

a. for any lot five acres or less: two;

b. for lots greater than five acres: three; and

c. for lots greater than ten acres: four;

2. The vehicles are not stored within any required setback areas of the lot or on adjacent streets; and

3. The parking area for the vehicles shall not be considered part of the outdoor storage area provided for in subsection C. of this section. (Ord. 15606 § 20, 2006).

21A.30.090 Home industry. A resident may establish a home industry as an accessory activity, as follows:

A. The site area is one acre or greater;

B. The area of the home industry does not exceed fifty percent of the floor area of the dwelling unit. Areas within attached garages and storage buildings shall not be considered part of the dwelling unit for purposes of calculating allowable home industry area but may be used for storage of goods associated with the home industry;

C. No more than four nonresidents who come to the site of the home industry are employed in the home industry;

D. In addition to required parking for the dwelling unit, on-site parking is provided as follows:

1. One stall for each non-resident employee of the home industry; and
2. One stall for customer parking;

E. Additional customer parking shall be calculated for areas devoted to the home industry at the rate of one stall per:

1. One thousand square feet of building floor area; and
2. Two thousand square feet of outdoor work or storage area;

F. Sales are limited to items produced on-site, except for items collected, traded and occasionally sold by hobbyists, such as coins, stamps, and antiques;

G. Ten feet of Type I landscaping are provided around portions of parking and outside storage areas that are otherwise visible from adjacent properties or public rights-of-way; and

H. The department ensures compatibility of the home industry by:

1. Limiting the type and size of equipment used by the home industry to those that are compatible with the surrounding neighborhood;
2. Providing for setbacks or screening as needed to protect adjacent residential properties;
3. Specifying hours of operation;
4. Determining acceptable levels of outdoor lighting; and
5. Requiring sound level tests for activities determined to produce sound levels that may be in excess of those in K.C.C. chapter 12.88. (Ord. 15606 § 21, 2006: Ord. 10870 § 537, 1993).

21A.30.200 Severability. If any provision of this section or its application to any person or circumstance is held invalid, the remainder of the section or the application of the provision to other persons or circumstances is not affected. (Ord. 11168 § 12, 1993).

Chapter 21A.32
GENERAL PROVISIONS - NONCONFORMANCE, TEMPORARY USES, AND RE-USE OF FACILITIES

Sections:

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21A.32.010 Purpose. The purposes of this chapter are to:

A. Establish the legal status of a nonconformance by creating provisions through which a nonconformance may be maintained, altered, reconstructed, expanded or terminated;

B. Provide for the temporary establishment of uses that are not otherwise permitted in a zone and to regulate such uses by their scope and period of use; and

C. Encourage the adaptive re-use of existing public facilities which will continue to serve the community, and to ensure public review of redevelopment plans by allowing:

1. Temporary re-use of closed public school facilities retained in school district ownership, and the reconversion of a temporary re-use back to a school use;

2. Permanent re-use of surplus nonresidential facilities (e.g. schools, fire stations, government facilities) not retained in school district ownership; or

3. Permanent re-use of historic structures listed on the National Register or designated as county landmarks. (Ord. 10870 § 538, 1993).

21A.32.020 Nonconformance - Applicability.

A. With the exception of nonconforming extractive operations identified in K.C.C. 21A.22, all nonconformances shall be subject to the provisions of this chapter.

B. The provisions of this chapter do not supersede or relieve a property owner from compliance with:

1. The requirements of the Uniform Building and Fire Codes; or

2. The provisions of this code beyond the specific nonconformance addressed by this chapter. (Ord. 10870 § 539, 1993).

21A.32.025 Nonconformance - Creation, continuation, and forfeiture of nonconformance status. Once created pursuant to K.C.C. 21A.06.800, a nonconformance may be continued in a manner consistent with the provisions of this chapter. However, nonconformance status is forfeited if the nonconformance is discontinued beyond the provisions of K.C.C. 21A.32.045. Once nonconformance status is forfeited, the nonconformance shall not be re-established. (Ord. 13130 § 2, 1998).

21A.32.040 Nonconformance - Abatement of illegal use, structure or development. Any use, structure or other site improvement not established in compliance with use and development standards in effect at the time of establishment shall be deemed illegal and shall be discontinued or terminated and subject to removal pursuant to the provisions of K.C.C. Title 23. (Ord. 10870 § 541, 1993).

21A.32.045 Nonconformance - Re-establishment of discontinued nonconforming use, or damaged or destroyed nonconforming structure or site improvement. A nonconforming use which has been discontinued or a nonconforming structure or site improvement which has been damaged or destroyed, may be re-established or reconstructed if:

A. The nonconforming use, structure, or site improvement which previously existed is not expanded;

B. A new nonconformance is not created; and

C. The use has not been discontinued for more than twelve months prior to its re-establishment, or the nonconforming structure or site improvement is reconstructed pursuant to a complete permit application submitted to the department within twelve months of the occurrence of damage or destruction. (Ord. 13130 § 3, 1998).

21A.32.055 Nonconformance - modifications to nonconforming use, structure or site improvement. Modifications to a nonconforming use, structure or site improvement may be reviewed and approved by the department pursuant to the code compliance review process of K.C.C. 21A.42.030 provided that:

A. The modification does not expand any existing nonconformance; and

B. The modification does not create a new type of nonconformance. (Ord. 15606 § 22, 2006: Ord. 13130 § 4, 1998).

21A.32.065 Nonconformance - expansions of nonconforming uses, structures, or site improvements. A nonconforming use, structure, or site improvement may be expanded as follows:

A. The department may review and approve, pursuant to the code compliance process of K.C.C. 21A.42.030, an expansion of a nonconformance only if:

1. The expansion conforms to all other provisions of this title, except that the extent of the project-wide nonconformance in each of the following may be increased up to ten percent:
   a. building square footage,
   b. impervious surface,
   c. parking, or
   d. building height; and
2. No subsequent expansion of the same nonconformance shall be approved under this subsection if the cumulative amount of such expansion exceeds the percentage prescribed in subsection A.1;

B. A special use permit shall be required for expansions of a nonconformance within a development authorized by an existing special use or unclassified use permit if the expansions are not consistent with subsection A. of this section;

C. A conditional use permit shall be required for expansions of a nonconformance:
1. Within a development authorized by an existing planned unit development approval; or
2. Not consistent with the provisions of subsections A. and B. of this section; and

D. No expansion shall be approved that would allow for urban growth outside the urban growth area, in conflict with King County Comprehensive Plan rural and natural resource policies and constitute impermissible urban growth outside an urban growth area. (Ord. 15606 § 23, 2006: Ord. 13130 § 5, 1998).

21A.32.075 Nonconformance - Required findings. Modifications or expansions approved by the department shall be based on written findings that the proposed:

Modification or expansion of a nonconformance located within a development governed by an existing conditional use permit, special use permit, unclassified use permit, or planned unit development shall provide the same level of protection for and compatibility with adjacent land uses as the original land use permit approval. (Ord. 13130 § 6, 1998).

21A.32.085 Nonconformance - Residences. Any residence nonconforming relative to use may be expanded, after review and approval through the code compliance process set forth in K.C.C. 21A.42.010, subject to all other applicable codes besides those set forth in this chapter for nonconformances. (Ord. 13130 § 12, 1998).

21A.32.100 Temporary use permits - Uses requiring permits. Except as provided by K.C.C. 21A.32.110, a temporary use permit shall be required for:

A. Uses not otherwise permitted in the zone that can be made compatible for periods of limited duration and/or frequency; or

B. Limited expansion of any use that is otherwise allowed in the zone but which exceeds the intended scope of the original land use approval. (Ord. 10870 § 547, 1993).

21A.32.110 Temporary use permits - Exemptions to permit requirement.

A. The following uses shall be exempt from requirements for a temporary use permit when located in the RB, CB, NB, O, or I zones for the time period specified below:
1. Uses not to exceed a total of thirty days each calendar year:
   a. Christmas tree lots;
   b. Fireworks stands; and
   c. Produce stands.
2. Uses not to exceed a total of fourteen days each calendar year:
   a. Amusement rides, carnivals, or circuses;
   b. Community festivals; and
   c. Parking lot sales.

B. Any use not exceeding a cumulative total of two days each calendar year shall be exempt from requirements for a temporary use permit.

C. Any community event held in a park and not exceeding a period of seven days shall be exempt from requirements for a temporary use permit.

D. Christmas tree sales not exceeding a total of 30 days each calendar year when located on Rural Area (RA) zoned property with legally established non-residential uses shall be exempt from requirements for a temporary use permit. (Ord. 13022 § 29, 1998: Ord. 12893 § 1, 1997: Ord. 10870 § 548, 1993).

21A.32.120 Temporary use permits - duration and frequency. Except as otherwise provided in this chapter or in K.C.C. chapter 21A.45, temporary use permits shall be limited in duration and frequency as follows:

A. The temporary use permit shall be effective for no more than one hundred eighty days from the date of the first event;

B. The temporary use shall not exceed a total of sixty days. This requirement applies only to the days that the event or events actually take place. For a winery in the A or RA zones, the temporary use shall not exceed a total of two events per month and all parking for the events must be accomodated on site;

C. The temporary use permit shall specify a date upon which the use shall be terminated and removed; and

D. A temporary use permit shall not be granted for the same temporary use on a property more than once per calendar year, though a temporary use permit may be granted for multiple events during the approval period. (Ord. 15170 § 4, 2005: Ord. 14781 § 3, 2003: Ord. 10870 § 549, 1993).

21A.32.130 Temporary use permits - Parking. Parking and access for proposed temporary uses shall be approved by the county. (Ord. 10870 § 550, 1993).

21A.32.140 Temporary use permits - Traffic control. The applicant for a proposed temporary use shall provide any parking/traffic control attendants as specified by the King County department of public safety. (Ord. 10870 § 551, 1993).

21A.32.145 Homeless encampments – prohibited. (Effective January 1, 2015, and thereafter). A homeless encampment is a prohibited use and shall not be approved through a temporary use permit. If the King County Ten Year Plan to End Homelessness ahs not been fully implemented and there is still a need for homeless encampments, the county council may through legislative action extend K.C.C. chapter 21A.45 and Ordinance 15170, Section 16. (Ord. 15170 § 18, 2005).

21A.32.150 Temporary construction buildings. Temporary structures for storage of tools and equipment, or for supervisory offices may be permitted for construction projects, provided that such structures are:

A. Allowed only during periods of active construction; and

B. Removed within 30 days of project completion or cessation of work. (Ord. 10870 § 552, 1993).

21A.32.160 Temporary construction residence.

A. A mobile home may be permitted on a lot as a temporary dwelling for the property owner, provided a building permit for a permanent dwelling on the site has been obtained.

B. The temporary mobile home permit shall be effective for a period of 12 months. The permit may be extended for one additional period of 12 months if the permanent dwelling is constructed with a finished exterior by the end of the initial approval period.

C. The mobile home shall be removed within 90 days of:

1. The expiration of the temporary mobile home permit; or

2. The issuance of a certificate of occupancy for the permanent residence, whichever occurs first. (Ord. 10870 § 553, 1993).

21A.32.170 Temporary mobile home for medical hardship.

A. A mobile home may be permitted as a temporary dwelling on the same lot as a permanent dwelling, provided:

1. The mobile home together with the permanent residence shall meet the setback, height, building footprint, and lot coverage provisions of the applicable zone; and

2. The applicant submits with the permit application a notarized affidavit that contains the following:

a. Certification that the temporary dwelling is necessary to provide daily care, as defined in K.C.C. 21A.06;

b. Certification that the primary provider of such daily care will reside on-site;

c. Certification that the applicant understands the temporary nature of the permit, subject to the limitations outlined in subsections B and C of this section;

d. Certification that the physician's signature is both current and valid; and

e. Certification signed by a physician that a resident of the subject property requires daily care, as defined in K.C.C. 21A.06.

B. Temporary mobile home permits for medical hardships shall be effective for 12 months. Extensions of the temporary mobile home permit may be approved in 12-month increments subject to demonstration of continuing medical hardship in accordance with the procedures and standards set forth in subsection A of this section.

C. The mobile home shall be removed within 90 days of:

1. The expiration of the temporary mobile home permit; or

2. The cessation of provision of daily care. (Ord. 12523 § 4, 1996: Ord. 10870 § 554, 1993).

21A.32.180 Temporary real estate offices. One temporary real estate office may be located on any new residential development, provided that activities are limited to the initial sale or rental of property or units within the development. The office use shall be discontinued within one year of recording of a short subdivision or issuance of a final certificate of occupancy for an apartment development, and within two years of the recording of a formal subdivision. (Ord. 13095 § 1, 1998: Ord. 10870 § 555, 1993).

21A.32.190 Temporary school facilities. Temporary school structures may be permitted during construction of new school facilities or during remodeling of existing facilities, provided that such structures are:

A. Allowed only during periods of active construction or remodeling;

B. Do not expand the student capacity beyond the capacity under construction or remodeling; and

C. Removed within 30 days of project completion or cessation of work. (Ord. 10870 § 556, 1993).

21A.32.200 Re-use of facilities - General standards. The interim or permanent re-use of surplus nonresidential facilities in residential zoned areas shall require that no more than 50 percent of the original floor area be demolished for either permanent or interim re-use of facilities. (Ord. 11621 § 94, 1994: Ord. 10870 § 557, 1993).

21A.32.210 Re-use of facilities - Re-establishment of closed public school facilities. The re-establishment or reconversion of an interim nonschool use of school facilities back to school uses shall require a site plan and the issuance of a change of use permit pursuant to K.C.C. 16.04. (Ord. 10870 § 558, 1993).

21A.32.220 Re-use of facilities - Standards for conversion of historic buildings. In order to insure that significant features of the property are protected pursuant to K.C.C. 20.62, the following standards shall apply to conversion of historic buildings:

A. Gross floor area of building additions or new buildings required for the conversion shall not exceed 20 percent of the gross floor area of the historic building, unless allowed by the zone;

B. Conversions to apartments shall not exceed one dwelling unit for each 3,600 square feet of lot area, unless allowed by the zone; and

C. Any construction required for the conversion shall require certification of appropriateness from the King County Landmark Commission. (Ord. 10870 § 559, 1993).

21A.32.230 Public nuisance - Prohibited activities. It is unlawful for any person to keep, maintain or deposit on any property in the county a public nuisance including, but not limited to, the following:

A. Open storage of rubbish or junk including, but not limited to, refuse, garbage, scrap metal or lumber, concrete, asphalt, tin cans, tires and piles of earth, not including compost bins.

B. Combustible material likely to become easily ignited or debris resulting from any fire and which constitutes a fire hazard, as defined in the Uniform Fire Code as adopted by the county pursuant to K.C.C. 17.04.010.

C. Abandoned vehicles, wrecked, dismantled or inoperative vehicles or remnant parts thereof except as provided in K.C.C. 23.10.040. (Ord. 12024 § 12, 1995).

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Chapter 21A.34
GENERAL PROVISIONS - RESIDENTIAL DENSITY INCENTIVES

Section:

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21A.34.010 Purpose. The purpose of this chapter is to provide density incentives to developers of residential lands in urban areas and rural activity centers, in exchange for public benefits to help achieve Comprehensive Plan goals of affordable housing, open space protection, historic preservation and energy conservation, by:

A. Defining in quantified terms the public benefits that can be used to earn density incentives;

B. Providing rules and formulae for computing density incentives earned by each benefit;

C. Providing a method to realize the development potential of sites containing unique features of size, topography, environmental features or shape; and

D. Providing a review process to allow evaluation of proposed density increases and the public benefits offered to earn them, and to give the public opportunities to review and comment. (Ord. 10870 § 560, 1993).

21A.34.020 Permitted locations of residential density incentives. Residential density incentives (RDI) shall be used only on sites served by public sewers and only in the following zones:

A. In R-4 through R-48 zones; and

B. In NB, CB, RB and O zones when part of a mixed use development. (Ord. 10870 § 561, 1993).

21A.34.030 Maximum densities permitted through residential density incentive review.

A. Except as otherwise provided in subsection B. of this section, the maximum density permitted through residential density incentive ("RDI") review shall be one-hundred fifty percent of the base density of the underlying zone of the development site.

B. The maximum density permitted through RDI review shall be two hundred percent of the base density of the underlying zone of the development site for the following RDI proposals:

1. For proposals where one hundred percent of the units are affordable units;or
2. For cottage housing proposals. (Ord. 15245 § 9, 2005: Ord. 10870 § 562, 1993).

21A.34.040 Public benefits and density incentives.

A. The public benefits eligible to earn increased densities, and the maximum incentive to be earned by each benefit, are in subsection F of this section. The density incentive is expressed as additional bonus dwelling unit, or fractions of dwelling units, earned per amount of public benefit provided.

B. Bonus dwelling units may be earned through any combination of the listed public benefits.

C. The guidelines for affordable housing bonuses including the establishment of rental levels, housing prices and asset limitations, will be updated and adopted annually by the council in the consolidated housing and community development plan.

D. Bonus dwelling units may also be earned and transferred to the project site through the transfer of development rights (TDR) program established in K.C.C. chapter 21A.37, by providing any of the open space, park site or historic preservation public benefits set forth in subsection F.2. or 3. of this section on sites other than that of the RDI development.

E. Residential development in R-4 through R-48 zones with property specific development standards requiring any public benefit enumerated in this chapter, shall be eligible to earn bonus dwelling units in accordance with subsection F of this section if the public benefits provided exceed the basic development standards of this title. If a development is located in a special overlay district, bonus units may be earned if the development provides public benefits exceeding corresponding standards of the special district.

F. The following are the public benefits eligible to earn density incentives through RDI review:

BENEFIT	DENSITY INCENTIVE
1. AFFORDABLE HOUSING	
a. Benefit units consisting of rental housing permanently priced to serve nonsenior citizen low-income households (that is no greater than 30 percent of gross income for households at or below 50 percent of King County median income, adjusted for household size). A covenant on the site that specifies the income level being served, rent levels and requirements for reporting to King County shall be recorded at final approval.	1.5 bonus units per benefit unit, up to a maximum of 30 low-income units per five acres of site area; projects on sites of less than five acres shall be limited to 30 low-income units.
b. Benefit units consisting of rental housing designed and permanently priced to serve low-income senior citizens (that is no greater than 30 percent of gross income for 1- or 2-person households, 1 member of which is 62 years of age or older, with incomes at or below 50 percent of King County median income, adjusted for household size). A covenant on the site that specifies the income level being served, rent levels and requirements for reporting to King County shall be recorded at final approval.	1.5 bonus units per benefit unit, up to a maximum of 60 low-income units per five acres of site area; projects on sites of less than five acres shall be limited to 60 low-income units.
c. Benefit units consisting of senior citizen assisted housing units 600 square feet or less.	1 bonus unit per benefit unit
d. Benefit units consisting of moderate income housing reserved for income- and asset-qualified home buyers (total household income at or below 80 percent of King County median, adjusted for household size). Benefit units shall be limited to owner-occupied housing with prices restricted based on typical underwriting ratios and other lending standards, and with no restriction placed on resale. Final approval conditions shall specify requirements for reporting to King County on both buyer eligibility and housing prices.	0.75 bonus unit per benefit unit.

(King County 6-2006)

BENEFIT	DENSITY INCENTIVE
e. Benefit units consisting of moderate income housing reserved for income and asset-qualified home buyers (total household income at or below 80 percent of King County median, adjusted for household size). Benefit units shall be limited to owner-occupied housing with prices restricted based on typical underwriting ratios and other lending standards, and with a 15 year restriction binding prices and eligibility on resale to qualified moderate income purchasers. Final approval conditions shall specify requirements for reporting to King County on both buyer eligibility and housing prices.	1 bonus unit per benefit unit.
f. Benefit units consisting of moderate income housing reserved for income- and asset-qualified home buyers (total household income at or below 80 percent of King County median, adjusted for household size). Benefit units shall be limited to owner-occupied housing, with prices restricted to same income group, based on current underwriting ratios and other lending standards for 30 years from date of first sale. A covenant on the site that specifies the income level and other aspects of buyer eligibility, price levels and requirements for reporting to King County shall be recorded at final approval.	1.5 bonus units per benefit unit.
g. Projects in which 100 percent of the units are reserved for moderate income - and asset-qualified buyers (total household income at or below 80 percent of the King County median, adjusted for household size). All units shall be limited to owner-occupied housing with prices restricted based on current underwriting ratios and other lending standards, and with prices restricted to same income group, for 15 years from date of first sale. Final approval conditions shall specify requirements for reporting to King County on both buyer eligibility and housing prices.	200 percent of the base density of the underlying zone. Limited to parcels 5 acres or less in size and located in the R-4 through R-8 zones. Housing types in the R-4 or R-6 zones shall be limited to structures containing four or less units, except for townhouses. Such RDI proposals shall not be eligible to utilize other RDI bonus density incentives listed in this section.
h. Benefit units consisting of mobile home park space or pad reserved for the relocation of an insignia or noninsignia mobile home, that has been or will be displaced due to closure of a mobile home park located in incorporated or unincorporated King County.	1.0 bonus unit per benefit unit.

BENEFIT	DENSITY INCENTIVE
2. OPEN SPACE, TRAILS AND PARKS	
a. Dedication of park site or trail right-of-way meeting King County location and size standards for neighborhood, community or regional park, or trail, and accepted by the parks division.	0.5 bonus unit per acre of park area or quarter-mile of trail exceeding the minimum requirement of K.C.C. 21A.14 for on-site recreation space or trail corridors, computed on the number of dwelling units permitted by the site's base density.
b. Improvement of dedicated park site to King County standards for developed parks.	0.75 bonus unit per acre of park improvement. If the applicant is dedicating the site of the improvements, the bonus units earned by improvements shall be added to the bonus units earned by the dedication.
c. Improvement of dedicated trail segment to King County standards.	1.8 bonus units per quarter mile of trail constructed to county standard for pedestrian trails; or 2.5 bonus units per quarter mile of constructed to county standard for multipurpose trails (pedestrian/ bicycle/equestrian). Shorter segments shall be awarded bonus units on a pro rata basis. If the applicant is dedicating the site of the improvements, the bonus units earned by improvements shall be added to the bonus units earned by the dedication.
d. Dedication of open space, meeting King County acquisition standards to the county or a qualified public or private organization such as a nature conservancy.	0.5 bonus unit per acre of open space.

BENEFIT	DENSITY INCENTIVE
3. HISTORIC PRESERVATION	
a. Dedication of a site containing an historic landmark in accordance with K.C.C. chapter 20.62, to King County or a qualifying nonprofit organization capable of restoring and/or maintaining the premises to standards set by the King County landmarks commission.	0.5 bonus unit per acre of historic site.
b. Restoration of a site or structure designated as an historic landmark in accordance with K.C.C. chapter 20.62 to a specific architectural or site plan approved by the King County landmarks commission.	0.5 bonus unit per acre of site or one thousand square feet of floor area of building restored.
4. ENERGY CONSERVATION	
a. Benefit units that incorporate conservation features in the construction of all on-site dwelling units heated by electricity that save at least 20 percent of space heat energy use from the maximum permitted by the Northwest Energy Code, as amended. No more than 50 percent of the required savings may result from the installation of heat pumps. None of the required savings shall be achieved by reduction of glazing area below 15 percent of floor area. Energy use shall be expressed as allowable energy load per square foot or as total transmittance (UA).	0.15 bonus unit per benefit unit that achieves the required savings.
b. Benefit units that incorporate conservation features in the construction of all on-site dwelling units heated by natural gas, or other nonelectric heat source, that save at least 25 percent of space heat energy use from the maximum permitted by the Northwest Energy Code, as amended. None of the required savings shall be achieved by reduction of glazing area below 15 percent of floor area. Energy use shall be expressed as allowable energy load per square foot or as total transmittance (UA).	0.10 bonus unit per benefit unit that achieves the required savings.
c. Developments located within 1/4 mile of transit routes served on at least a half-hourly basis during the peak hours and hourly during the daytime nonpeak hours.	10 percent increase above the base density of the zone.

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BENEFIT	DENSITY INCENTIVE
5. PUBLIC ART	
a. Devoting 1% of the project budget to public art on site.	5 percent increase above the base density of the zone.
b. Contributing 1% of the project budget to the King County public art fund for development of art projects. The contribution shall be used for projects located within a one mile radius of the development project.	5 percent increase above the base density of the zone.
6. COTTAGE HOUSING	
Provision of three to sixteen detached cottage units clustered around at least one common open space.	Two hundred percent of the base density of the underlying zone. Limited to parcels in the R4-R8 zones. Such RDI proposals shall not be eligible to utilize other RDI bonus density incentives listed in this section.

If proposed energy conservation bonus units of this section are reviewed in conjunction with a subdivision or a short subdivision, the applicant shall provide data and calculations for a typical house of the type to be built in the development that demonstrates to the department's satisfaction how the required savings will be achieved. A condition of approval shall be recorded with the plat and shown on the title of each lot specifying the required energy savings that must be achieved in the construction of the dwelling unit. The plat notation shall also specify that the savings shall be based on the energy code in effect at the time of preliminary plat application. (15032 § 38, 2004: Ord. 14190 § 36, 2001: Ord. 14045 § 56, 2001: Ord. 10870 § 563, 1993).

21A.34.050 Rules for calculating total permitted dwelling units.

A. The formula for calculating the total number of dwelling units permitted through RDI review is as follows:

DUs allowed by RDI site base density	+	Bonus DUs	+	DUs allowed by sending site density (if any)	=	TOTAL RDI DUs

B. The total dwelling units permitted through RDI review shall be calculated using the following steps:

1. Calculate the number of dwellings permitted by the base density of the site in accordance with K.C.C. chapter 21A.12;

2. Calculate the total number of bonus dwelling units earned by providing the public benefits listed in K.C.C. 21A.34.040;

3. Add the number of bonus dwelling units earned to the number of dwelling units permitted by the base density;

4. Add the number of dwelling units permitted by the base density of the site sending TDRs, if any;

5. Round fractional dwelling units to the nearest whole number; .49 or less dwelling units are rounded down; and

6. On sites with more than one zone or zone density, the maximum density shall be calculated for the site area of each zone. Bonus units may be reallocated within the zones in the same manner set forth for base units in K.C.C. 21A.12.180. (Ord. 14190 § 37, 2001: Ord. 10870 § 564, 1993).

21A.34.060 Review process.

A. All RDI proposals shall be reviewed concurrently with a primary proposal to consider the proposed site plan and methods used to earn extra density as follows:

1. For the purpose of this section, a primary proposal is defined as a proposed subdivision, conditional use permit or commercial building permit.

2. When the primary proposal requires a public hearing under this code or Title 19A, the public hearing on the primary proposal shall serve as the hearing on the RDI proposal. The reviewing authority shall make a consolidated decision on the proposed development and use of RDI and consider any appeals of the RDI proposal under the same appeal procedures set forth for the development proposal;

3. When the development proposal does not require a public hearing under this title or K.C.C. Title 19A, the RDI proposal shall be considered along with the development proposal, and any appeals of the RDI proposal shall be considered under the same appeal procedures set forth for the development proposal; and

4. The notice for the RDI proposal also shall include the development's proposed density and a general description of the public benefits offered to earn extra density.

B. RDI applications which propose to earn bonus units by dedicating real property or public facilities shall include a letter from the applicable county receiving agency certifying that the proposed dedication qualifies for the density incentive and will be accepted by the agency or other qualifying organization. (Ord. 14190 § 38, 2001: Ord. 10870 § 565, 1993).

21A.34.070 Minor adjustments in final site plans. When issuing building permits in an approved RDI development, the department may allow minor adjustments in the approved site plan involving the location or dimensions of buildings or landscaping, provided such adjustments shall not:

A. Increase the number of dwelling units;

B. Decrease the amount of perimeter landscaping (if any);

C. Decrease residential parking facilities (unless the number of dwelling units is decreased);

D. Locate structures closer to any site boundary line; or

E. Change the locations of any points of ingress and egress to the site. (Ord. 10870 § 566, 1993).

21A.34.080 Applicability of development standards.

A. RDI developments shall comply with dimensional standards of the zone with a base density most closely comparable to the total approved density of the RDI development, provided that an RDI proposal in the R-4 through R-8 zone shall conform to the height requirements of the underlying zone in which it is located.

B. RDI developments in the R-4 through R-8 zones shall be landscaped as follows:

1. When 75 percent or more of the units in the RDI development consists of townhouses or apartments, the development shall provide perimeter landscaping and tree retention in accordance with K.C.C. 21A.16 for townhouse or apartment projects.

2. When less than 75 percent of the units in the RDI consists of townhouses or apartments, the development shall provide landscaping and tree retention in accordance with K.C.C. 21A.16 for townhouses or apartments on the portion(s) of the development containing such units provided that, if buildings containing such units are more than 100 feet from the development's perimeter, the required landscaping may be reduced by 50 percent.

3. All other portions of the RDI shall provide landscaping or retain trees in accordance with K.C.C. 21A.16.

C. RDI developments in all other zones shall be landscaped or retain trees in accordance with K.C.C. 21A.16.

D. RDI developments shall provide parking as follows:

1. Projects with 100 percent affordable housing shall provide one off-street parking space per unit. The director may require additional parking, up to the maximum standards for attached dwelling units, which may be provided in common parking areas.

2. All other RDI proposals shall provide parking for:

a. market rate/bonus units at levels consistent with K.C.C. 21A.18, and

b. benefit units at 50 percent of the levels required for market rate/bonus units.

E. RDI developments shall provide on-site recreation space as follows:

1. Projects with 100 percent affordable housing shall provide recreation space at 50 percent of the levels required in K.C.C. 21A.14.

2. All other RDI proposals shall provide recreation space for:

a. market rate/bonus units at levels consistent with K.C.C. 21A.14, and

b. benefit units at 50 percent of the levels required for market rate/bonus units. (Ord. 10870 § 567, 1993).

Chapter 21A.37
GENERAL PROVISIONS - TRANSFER OF DEVELOPMENT RIGHTS (TDR)

Sections:

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21A.37.010 Transfer of development rights (TDR) program - purpose.

A. The purpose of the transfer of development rights program is to transfer residential density from eligibile sending sites to eligible receiving sites through a voluntary process for permanently preserving rural resource and urban separator lands that provide a public benefit. The TDR provisions are intended to supplement land use regulations, resource protection efforts and open space acquisition programs and to encourage increased residential development density or increased commercial square footage, especially inside cities, where it can best be accommodated with the least impacts on the natural environment and public services by:

1. Providing an effective and predictable incentive process for property owners of rural, resource and urban separator land to preserve lands with a public benefit as described in K.C.C. 21A.37.020; and

2. Providing an efficient and streamlined administrative review system to ensure that transfers of development rights to receiving sites are evaluated in a timely way and balanced with other county goals and policies, and are adjusted to the specific conditions of each receiving site.

B. The TDR provisions in this chapter shall only apply to TDR receiving site development proposals submitted on or after September 17, 2001, and applications for approval of TDR sending sites submitted on or after September 17, 2001. (Ord. 15032 § 39, 2004: Ord. 14190 § 3, 2001: Ord. 13274 § 1, 1998. Formerly K.C.C. 21A.55.100).

21A.37.020 Transfer of development rights (TDR) program - sending sites.

A. For the purpose of this chapter, sending site means the entire tax lot or lots qualified under subsection B of this section. Sending sites may only be located within rural or resource lands or urban separator areas with R-1 zoning, as designated by the King County Comprehensive Plan and cannot be in public ownership. If the sending site consists of more than one tax lot, the lots must be contiguous. For purposes of this section, lots divided by a street are considered contiguous if the lots would share a common lot line if the street was removed; this provision may be waived by the interagency committee if the total acreage of a rural or resource sending site application exceeds one hundred acres. A sending site shall be maintained in a condition that is consistent with the criteria in this section under which the sending was qualified.

B. Qualification of a sending site shall demonstrate that the site contains a public benefit such that preservation of that benefit by transferring residential development rights to another site is in the public interest. A sending site must meet at least one of the following criteria:

1. Designation in the King County Comprehensive Plan or a functional plan as an agricultural production district or zoned A;

2. Designation in the King County Comprehensive Plan or a functional plan as forest production district or zoned F;

3. Designation in the King Count Comprehensive Plan as rural residential, zoned RA-5 or RA-10, and meeting the definition in RCW 84.34.020 of open space, farm and agricultural land, or timber land;

4. Designation in the King County Comprehensive Plan or a functional plan as within the rural forest focus area and zoned RA with a minimum of fifteen acres of forested land that is not encumbered through King County's development rights purchase program;

5. Designation in the King County Comprehensive Plan, or a functional plan as a proposed rural or resource area regional trail or rural or resource area open space site, through either:

a. designation of a specific site; or

b. identification of proposed rural or resource area regional trails or rural or resource area open space sites which meet adopted standards and criteria, and for rural or resource area open space sites, meet the definition of open space land, as defined in RCW 84.34.020;

6. Identification as habitat for federal listed endangered or threatened species in a written determination by the King County department of natural resources and parks*, Washington state Department of Fish and Wildlife, United States Fish and Wildlife Services or a federally recognized tribe that the sending site is appropriate for preservation or acquisition; or

7. Designation in the King County Comprehensive Plan as urban separator and zoned R-1.

C. For the purposes of the TDR program, acquisition means obtaining fee simple rights in real property, or a less than a fee simple right in a form that preserves in perpetuity the public benefit supporting the designation or qualification of the property as a sending site.

D. If a sending site has any outstanding code violations, the person responsible for code compliance should resolve these violations, including any required abatement, restoration, or payment of civil penalties, before a TDR sending site may be qualified by the interagency review committee created under K.C.C. 21A.37.070. However, the interagency may qualify and certify a TDR sending site with outstanding code violations if the person responsible for code compliance has made a good faith effort to resolve the violations and the proposal is in the public interest.

E. For lots on which the entire lot or a portion of the lot has been cleared or graded in accordance with a Class II, III or IV special forest practice as defined in chapter 76.09 RCW within the six years prior to application as a TDR sending site, the applicant must provide an affidavit of compliance with the reforestation requirements of the Forest Practices Act, and any additional reforestation conditions of their forest practice permit. Lots on which the entire lot or a portion of the lot has been cleared or graded without any required forest practices or county authorization, shall be not qualified or certified as a TDR sending site for six years unless the six-year moratorium on development applications has been lifted or waived or the landowner has a reforestation plan approved by the state Department of Natural Resources and King County. (Ord. 15032 § 40, 2004: Ord. 14199 § 240, 2001: Ord. 14190 § 4, 2001: Ord. 14045 § 59, 2001: Ord. 13274 § 4, 1998. Formerly K.C.C. 21A.55.130).

21A.37.030 Transfer of development rights (TDR) program - receiving sites.

A. Receiving sites shall be:

1. King County unincorporated urban sites, except as limited in subsection D. of this section, zoned R-4 through R-48, NB, CB, RB or O, or any combination thereof. The sites may also be within potential annexation areas established under the countywide planning policies; or

2. Cities where new growth is or will be encouraged under the Growth Management Act and the countywide planning policies and where facilities and services exist or where public investments in facilities and services will be made, or

3. RA-2.5 zoned parcels, except as limited in subsection E. of this section, that meet the criteria listed in this subsection A.3. may receive development rights transferred from rural forest focus areas, and accordingly may be subdivided and developed at a maximum density of one dwelling per two and one-half acres. Increased density allowed through the designation of rural receiving areas:

a. must be eligible to be served by domestic Group A public water service;

b. must be located within one-quarter mile of an existing predominant pattern of rural lots smaller than five acres in size;

c. must not adversely impact regionally or locally significant resource areas or critical areas;

d. must not require public services and facilities to be extended to create or encourage a new pattern of smaller lots;

e. must not be located within rural forest focus areas; and

f. must not be located on Vashon Island or Maury Island.

B. Except as provided in this chapter, development of an unincorporated King County receiving site shall remain subject to all zoning code provisions for the base zone, except TDR receiving site developments shall comply with dimensional standards of the zone with a base density most closely comparable to the total approved density of the TDR receiving site development.

C. An unincorporated King County receiving site may accept development rights from one or more sending sites, up to the maximum density permitted under K.C.C. 21A.12.030 and 21A.12.040.

D. Property located within the outer boundaries of the Noise Remedy Areas as identified by the Seattle-Tacoma International Airport may not accept development rights.

E. Property located on Vashon Island or Maury Island may not accept development rights. (Ord. 15606 § 24, 2006: Ord. 15032 § 41, 2004: Ord. 14190 § 5, 2001: Ord. 14045 § 60, 2001: Ord. 13274 § 5, 1998. Formerly K.C.C. 21A.55.140).

21A.37.040 Transfer of development rights (TDR) program - calculations.

A. The number of residential development rights that an unincorporated sending site is eligible to send to a receiving site shall be determined by applying the TDR sending site base density established in subsection D. of this section to the area of the sending site after any portion of the sending site already in a conservation easement or other similar encumbrance has been deducted.

B. Any fractions of development rights that result from the calculations in subsection A. of this section shall not be included in the final determination of total development rights available for transfer.

C. For purposes of calculating the amount of development rights a sending site can transfer, the amount of land contained within a sending site shall be determined as follows:

1. If the sending site is an entire tax lot, the square footage or acreage shall be determined:

a. by the King County department of assessments records; or

b. by a survey funded by the applicant that has been prepared and stamped by a surveyor licensed in the state of Washington; and

2. If the sending site consists of a lot that is divided by a zoning boundary, the square footage or acreage shall be calculated separately for each zoning classification. The square footage or acreage within each zoning classification shall be determined by the King County record of the action that established the zoning and property lines, such as an approved lot line adjustment. When such records are not available or are not adequate to determine the square footage or acreage within each zoning classification, the department of development and environmental services shall calculate the square footage or acreage through the geographic information system (GIS) mapping system.

D. For the purposes of the transfer of development rights (TDR) program, the following TDR sending site base densities apply:

1. Sending sites designated in the King County Comprehensive Plan as urban separator and zoned R-1 shall have a base density of four dwelling units per acre for transfer purposes only;

2. Sending sites zoned RA outside a rural forest focus area shall have a base density consistent with the base density established in the density and dimensions tables in K.C.C.21A.12.030;

3. Sending sites zoned RA within rural forest focus areas shall have a base density of one dwelling unit per five acres for transfer purposes only;

4. Sending sites zoned A-10 and A-35 within the agricultural production district shall have a base density of one dwelling unit per five acres for transfer purposes only; and

5. Sending sites zoned F within the forest production district shall have a base density of one dwelling unit per eighty acres or one dwelling unit per each lot that is between fifteen and eighty acres in size for transfer purposes only.

E. A sending site may send one development right for every legal lot created on or before September 17, 2001, if that number is greater than the number of development rights determined under subsection A. of this section.

F. The number of development rights that a King County unincorporated rural or natural resources land sending site is eligible to send to a King County incorporated urban area receiving site shall be determined through the application of a conversion ratio established by King County and the incorporated municipal jurisdiction. The conversion ratio will be applied to the number of available sending site development rights determined under subsection A. or E. of this section.

G. Development rights from one sending site may be allocated to more than one receiving site and one receiving site may accept development rights from more than one sending site.

H. The determination of the number of residential development rights a sending site has available for transfer to a receiving site shall be valid for transfer purposes only, shall be documented in a TDR certificate letter of intent and shall be considered a final determination, not to be revised due to changes to the sending site's zoning.

I. The number of residential development rights that a sending site with RA, A or F zoning is eligible to send to an unincorporated urban area receiving site shall be determined by applying twice the base density allowed for transfer purposes as specified in subsection D. of this section. (Ord. 15032 § 42, 2004: Ord. 14190 § 6, 2001: Ord. 14045 § 61, 2001: Ord. 13274 § 6, 1998. Formerly K.C.C. 21A.55.150).

21A.37.050 Transfer of development rights (TDR) program - development limitations.

A. Following the transfer of residential development rights a sending site may subsequently accommodate remaining residential dwelling units, if any, on the buildable portion of the parcel or parcels or be subdivided, consistent with the zoned base density provisions of the density and dimensions tables in K.C.C. 21A.12.030 and 21A.12.040, the allowable dwelling unit calculations in K.C.C. 21A.12.070 and other King County development regulations. For sending sites zoned RA, the subdivision potential remaining after a density transfer may only be actualized through a clustered subdivision, short subdivision or binding site plan that creates a permanent preservation tract as large or larger than the portion of the subdivision set aside as lots. Within rural forest focus areas, resource use tracts shall be at least fifteen acres of contiguous forest land.

B. Only those nonresidential uses directly related to, and supportive of the criteria under which the site qualified are allowed on a sending site.

C. The applicable limitations in this section shall be included in the sending site conservation easement. (Ord. 15245 § 10, 2005: Ord. 15032 § 43, 2004: Ord. 14190 § 7, 2001).

21A.37.060 Transfer of development rights (TDR) program - documentation of restrictions.

A. Following the transfer of development rights from a sending site, deed restrictions documenting the development rights transfers shall be recorded by the department of natural resources and parks, or its successor, and notice placed on the title to the sending site parcel. The department of development and environmental services, or its successor, shall establish and maintain an internal tracking system that identifies all certified transfer of developments rights sending sites.

B. A conservation easement granted to the county or other appropriate land management agency shall be required for land contained in the sending site. The conservation easement shall be documented by a map. The conservation easement shall be placed on the entire lot or lots. The conservation easement shall identify limitations on future residential and nonresidential development consistent with this chapter and as follows:

1. A conservation easement, which contains the easement map, shall be recorded on the entire sending site to indicate development limitations on the sending site;

2. For a sending site zoned A-10 or A-35, the conservation easement shall be consistent in form and substance with the purchase agreements used in the agricultural land development rights purchase program. The conservation easement shall preclude subdivision of the subject property but may permit not more than one dwelling per sending site, and shall permit agricultural uses as provided in the A-10 or A-35 zone;

3. For a sending site located within a rural forest focus area, the sending site shall be a minimum of twenty acres. The conservation easement shall require that fifteen acres of contiguous forest land be restricted to forest management activities and shall include a forest stewardship plan approved by the county for ongoing forest management practices. The Forest Stewardship Plan shall meet the requirements of King County administrative rules concerning forest stewardship plans and shall not impose standards that exceed Title 222 WAC. No more than one dwelling unit is allowed for every twenty acres;

4. For a rural sending site located outside a rural forest focus area the conservation easement shall allow for restoration, maintenance or enhancement of native vegetation. A present conditions report shall be required to document the location of native vegetation. If residential development will be allowed on the site under the conservation easement, the present conditions report shall be used to guide the location of residential development;

5. For a sending site qualifying as habitat for federal listed endangered or threatened species, the conservation easement shall protect habitat and allow for restoration, maintenance or enhancement of native vegetation. A present conditions report shall be required to document the location of existing structures. If existing or future residential development will be allowed on the site under the conservation easement, the present conditions report shall be used by the owner to guide the location of residential development; and

6. For a sending site zoned F, the conservation easement shall encumber the entire sending site. Lots between fifteen acres and eighty acres in size are not eligible to participate in the TDR program if they include any existing dwelling units intended to be retained, or if a new dwelling unit is proposed. For eligible lots between fifteen acres and eighty acres in size, the sending site must include the entire lot. For lots greater than eighty acres in size, the sending site shall be a minimum of eighty acres. The conservation easement shall permit forestry uses subject to a forest stewardship plan prepared by the applicant and approved by the county for ongoing forest management practices. The Forest Stewardship Plan shall include a description of the site's forest resources and the long term forest management objectives of the property owner, and shall not impose standards that exceed Title 222 WAC. (Ord. 15032 § 44, 2004: Ord. 14190 § 8, 2001).

21A.37.070 Transfer of development rights (TDR) program - sending site certification and interagency review committee process.

A. An interagency review committee, chaired by the directors of the department of development and environmental services and the department of natural resources and parks, or their designees, shall be responsible for qualification of sending sites. Determinations on sending site certifications made by the committee are appealable to the examiner under K.C.C. 20.24.080. The department of natural resources and parks shall be responsible for preparing a written report, which shall be signed by the director of the department of natural resources and parks or the director's designee, documenting the review and decision of the committee. The committee shall issue a TDR certification letter within sixty days of the date of submittal of a completed sending site certification application.

B. Responsibility for preparing a completed application rests exclusively with the applicant. Application for sending site certification shall include:

1. A legal description of the site;
2. A title report;
3. A brief description of the site resources and public benefit to be preserved;
4. A site plan showing the existing and proposed dwelling units, nonresidential structures, driveways, submerged lands and any area already subject to a conservation easement or other similar encumbrance;
5. Assessors map or maps of the lot or lots;
6. A statement of intent indicating whether the property ownership, after TDR certification, will be retained in private ownership or dedicated to King County or another public or private nonprofit agency;
7. Any or all of the following written in conformance with criteria established through a public rule consistent with K.C.C. chapter 2.98, if the site is qualifying as habitat for a threatened or endangered species:
   a. a wildlife habitat conservation plan;
   b. a wildlife habitat restoration plan; or
   c. a wildlife present conditions report;
8. A forest stewardship plan, written in conformance with criteria established through a public rule consistent with K.C.C. chapter 2.98, if required under K.C.C. 21A.37.060.B.3. and 6.;

9. An affidavit of compliance with the reforestation requirements of the Forest Practices Act and any additional reforestation conditions of the forest practices permit for the site, if required under K.C.C. 21A.37.020.E;

10. A completed density calculation worksheet for estimating the number of available development rights; and

11. The application fee consistent with K.C.C. 27.36.020. (Ord. 15032 § 45, 2004: Ord. 14561 § 28, 2002: Ord. 14199 § 241, 2001: Ord.14190 § 9, 2001: Ord. 13274 § 7, 1998. Formerly K.C.C. 21A55.160).

21A.37.080 Transfer of development rights (TDR) program - transfer process.

A. TDR development rights where both the proposed sending and receiving sites would be within unincorporated King County shall be transferred using the following process:

1. Following interagency review committee review and approval of the sending site application as described in K.C.C. 21A.37.070 the interagency review committee shall issue a TDR certificate letter of intent, agreeing to issue a TDR certificate in exchange for the proposed sending site conservation easement. The sending site owner may then market the TDR sending site development rights to potential purchasers. If a TDR sending site that has been reviewed and approved by the interagency review committee changes ownership, the TDR certificate letter of intent may be transferred to the new owner if requested in writing to the department of natural resources by the person or persons that owned the property when the TDR certificate letter of intent was issued, provided that the documents evidencing the transfer of ownership are also provided to the department of natural resources;

2. In applying for receiving site approval, the applicant shall provide the department of development and environmental services with one of the following:

a. a TDR certificate letter of intent issued in the name of the applicant,

b. a TDR certificate letter of intent issued in the name of another person or persons and a copy of a signed option to purchase those TDR sending site development rights,

c. a TDR certificate issued in the name of the applicant, or

d. a TDR certificate issued in the name of another person or persons and a copy of a signed option to purchase those TDR sending site development rights;

3. Following building permit approval, but before building permit issuance by the department of development and environmental services or following preliminary plat approval or preliminary short plat approval, but before final plat or short plat recording of a receiving site development proposal which includes the use of TDR development rights, the receiving site applicant shall deliver the TDR certificate issued in the applicant's name for the number of TDR development rights being used and the TDR extinguishment document to the county;

4. When the receiving site development proposal requires a public hearing under this title or K.C.C. Title 19A or its successor, that public hearing shall also serve as the hearing on the TDR proposal. The reviewing authority shall make a consolidated decision on the proposed development and use of TDR development rights and consider any appeals of the TDR proposal under the same appeal procedures set forth for the development proposal; and

5. When the development proposal does not require a public hearing under this title or K.C.C. Title 19A, the TDR proposal shall be considered along with the development proposal, and any appeals of the TDR proposal shall be considered under the same appeal procedures set forth for the development proposal.

6. Development rights from a sending site shall be considered transferred to a receiving site when a final decision is made on the TDR receiving area development proposal, the sending site is permanently protected by a completed and recorded land dedication or conservation easement, notification has been provided to the King County assessor's office and a TDR extinguishment document has been provided to the department of natural resources and parks, or its successor agency.

B. TDR development rights where the proposed receiving site would be within an incorporated King County municipal jurisdiction shall be reviewed and transferred using that jurisdiction’s development application review process. (Ord. 15032 § 46, 2004: Ord. 14190 § 10, 2001: Ord. 13274 § 8, 1998. Formerly K.C.C. 21A.55.170).

21A.37.090 Transfer of development rights (TDR) program - notice. Public notice consistent with the provisions of K.C.C. 20.20.060 for Type Four land use decisions shall be provided for parcels identified as TDR receiving sites. (Ord. 14190 § 11, 2001: Ord. 13274 § 9, 1998. Formerly K.C.C. 21A.55.180).

21A.37.100 Transfer of development rights (TDR) bank -- purpose. The purpose of the TDR bank is to assist in the implementation of the transfer of development rights (TDR) program by purchasing and selling development rights and purchasing conservation easements. The TDR bank may acquire development rights and conservation easements only from sending sites located in the rural area or in an agricultural or forest production district as designated in the King County Comprehensive Plan. Development rights purchased from the TDR bank may only be used for receiving sites in cities or in the urban unincorporated area as designated in the King County Comprehensive Plan. (Ord. 14763 § 1, 2003: Ord. 14190 § 12, 2001: Ord. 14045 § 62, 2001: Ord. 13733 § 8, 2000. Formerly K.C.C. 21A.55.200).

21A.37.110 Transfer of development rights (TDR) bank expenditure and purchase authorization.

A. The TDR bank may purchase development rights from qualified sending sites at prices not to exceed fair market value and to sell development rights at prices not less than fair market value. The TDR bank may accept donations of development rights from qualified TDR sending sites.

B. The TDR bank may purchase a conservation easement only if the property subject to the conservation easement is qualified as a sending site as evidenced by a TDR certificate letter of intent, the conservation easement restricts development of the sending site in the manner required by K.C.C. 21A.37.060 and the development rights generated by encumbering the sending site with the conservation easement are issued to the TDR bank at no additional cost.

C. If a conservation easement is acquired through a county park, open space, trail, agricultural, forestry or other natural resource acquisition program for a property that is qualified as a TDR sending site as evidenced by a TDR certificate letter of intent, any development rights generated by encumbering the sending site with the conservation easement may be issued to the TDR bank so long as there is no additional cost for the development rights.

D. The TDR bank may use funds to facilitate development rights transfers. These expenditures may include, but are not limited to, establishing and maintaining internet web pages, marketing TDR receiving sites, procuring title reports and appraisals and reimbursing the costs incurred by the department of natural resources and parks, water and land resources division, or its successor, for administering the TDR bank fund and executing development rights purchases and sales.

E. The TDR bank fund shall not be used to cover the cost of identifying and qualifying sending and receiving sites, or the costs of providing staff support for the TDR interagency review committee or the department of natural resources and parks.

F. All proceeds from the sale of TDR bank development rights shall be available for acquisition of additional development rights upon approval of the TDR executive board. (Ord. 15032 § 47, 2004: Ord. 14763 § 2, 2003: Ord. 14561 § 29, 2002: Ord. 14199 § 242, 2001: Ord. 14190 § 13: Ord. 13733 § 10, 2000. Formerly K.C.C. 21A.55.210).

21A.37.120 Transfer of development rights (TDR) program - administration of TDR bank.

A. The department of natural resources and parks, water and land resources division, or its successor, shall administer the TDR bank fund and execute purchases of development rights and conservation easements and sales of development rights in a timely manner consistent with policy set by the TDR executive board. These responsibilities include, but are not limited to:

1. Managing the TDR bank fund;
2. Authorizing and monitoring expenditures;
3. Keeping records of the dates, amounts and locations of development rights purchases and sales, and conservation easement purchases;
4. Executing development rights purchases, sales and conservation easements; and
5. Providing periodic summary reports of TDR bank activity for TDR executive board consideration.

B. The department of natural resources and parks, water and land resources division, or its successor, in executing purchase and sale agreements for acquisition of development rights and conservation easements shall ensure sufficient values are being obtained and that all transactions, conservation easements or fee simple acquisitions are consistent with public land acquisition guidelines. (Ord. 14763 § 3, 2003: Ord. 14199 § 243, 2001: Ord. 14190 § 14, 2001: Ord. 13733 § 11, 2000. Formerly K.C.C. 21A.55.220).

21A.37.130 Transfer of development rights (TDR) program - sale of TDR rights by TDR bank.

A. The sale of development rights by the TDR bank shall be at a price that equals or exceeds the fair market value of the development rights. The fair market value of the development rights shall be established by the department of natural resources and shall be based on the amount the county paid for the development rights and the prevailing market conditions.

B. When selling development rights, the TDR bank may select prospective purchasers based on the price offered for the development rights, the number of development rights offered to be purchased, and the potential for the sale to achieve the purposes of the TDR program.

C. The TDR bank may sell development rights only in whole or half increments to incorporated receiving sites through an interlocal agreement. The TDR bank may sell development rights only in whole increments to unincorporated King County receiving sites.

D. All offers to purchase development rights from the TDR bank shall be in writing, shall include a certification that the development rights, if used, shall be used only inside an identified city or within the urban unincorporated area, include a minimum ten percent down payment with purchase option, shall include the number of development rights to be purchased, location of the receiving site, proposed purchase price and the required date or dates for completion of the sale, not later than three years after the date of receipt by King County of the purchase offer.

E. Payment for purchase of development rights from the TDR bank shall be in full at the time the development rights are transferred unless otherwise authorized by the department of natural resources and parks. (Ord. 15032 § 48, 2004: Ord. 14199 § 244, 2001: Ord. 14190 § 15, 2001: Ord. 13733 § 12, 2000. Formerly K.C.C. 21A.55.230).

21A.37.140 Transfer of development rights (TDR) program - requirements for transfers by the TDR bank for use in incorporated receiving areas.

A. For development rights sold by the TDR bank to be used in incorporated receiving site areas, the county and the affected city or cities must first have executed an interlocal agreement and the city or cities must have enacted appropriate legislation to implement the program for the receiving area.

B. At a minimum, each interlocal agreement shall describe the legislation that the receiving jurisdiction adopted or will adopt to allow the use of development rights, shall identify the receiving area, shall require the execution of a TDR extinguishment document in conformance with K.C.C. 21A.37.080, and should address the conversion ratio to be used in the receiving site area. If the city is to receive any amenity funds, the interlocal agreement shall set forth the amount of funding and the amenities to be provided in accordance with K.C.C. 21A.37.150 I. Such an interlocal agreement may also indicate that a priority should be given by the county to acquiring development rights from sending sites in specified geographic areas. If a city has a particular interest in the preservation of land in a rural or resource area or in the specific conditions on which it will be preserved, then the interlocal agreement may provide for periodic inspection or special terms in the conservation easement to be recorded against the sending site as a pre acquisition condition to purchases of development rights within specified areas by the TDR bank.

C. A TDR conversion ratio for development rights purchased from a sending site and transferred to an incorporated receiving site area may express the amount of additional development rights in terms of any combination of units, floor area, height or other applicable development standards that may be modified by the city to provide incentives for the purchase of development rights. (Ord. 14190 § 16, 2001: Ord. 13733 § 13, 2000. Formerly K.C.C. 21A.55.240).

21A.37.150 Transfer of development rights (TDR) program - restrictions on expenditure of TDR bank funds on TDR amenities.

A. Expenditures by the county for amenities to facilitate development rights sales shall be authorized by the TDR executive board during review of proposed interlocal agreements, and should be roughly proportionate to the value and number of development rights anticipated to be accepted in an incorporated receiving site pursuant to the controlling interlocal agreement, or in the unincorporated urban area, in accordance with K.C.C. 21A.37.040.

B. The county shall not expend funds on TDR amenities in a city before execution of an interlocal agreement, except that:

1. The executive may authorize up to twelve thousand dollars be spent by the county on TDR amenities before a development rights transfer for use at a receiving site or for the execution of an interlocal agreement if the TDR executive board recommends that the funds be spent based on a finding that the expenditure will expedite a proposed transfer of development rights or facilitate acceptance of a proposed transfer of development rights by the community around a proposed or established receiving site area;

2. King County may distribute the funds directly to a city if a scope of work, schedule and budget governing the use of the funds is mutually agreed to in writing by King County and the affected city. Such an agreement need not be in the form of an interlocal agreement; and

3. The funds may be used for project design renderings, engineering or other professional services performed by persons or entities selected from the King County approved architecture and engineering roster maintained by the department of finance or an affected city's approved architecture and engineering roster, or selected by an affected city through its procurements processes consistent with state law and city ordinances.

C. TDR amenities may include the acquisition, design or construction of public art, cultural and community facilities, parks, open space, trails, roads, parking, landscaping, sidewalks, other streetscape improvements, transit-related improvements or other improvements or programs that facilitate increased densities on or near receiving sites.

D. When King County funds amenities in whole or in part, the funding shall not commit the county to funding any additional amenities or improvements to existing or uncompleted amenities.

E. King County funding of amenities shall not exceed appropriations adopted by the council or funding authorized in interlocal agreements, whichever is less.

F. Public transportation amenities shall enhance the transportation system. These amenities may include capital improvements such as passenger and layover facilities, if the improvements are within a designated receiving area or within one thousand five hundred feet of a receiving site. These amenities may also include programs such as the provision of security at passenger and layover facilities and programs that reduce the use of single occupant vehicles, including car sharing and bus pass programs.

G. Road fund amenities shall enhance the transportation system. These amenities may include capital improvements, such as streets, traffic signals, sidewalks, street landscaping, bicycle lanes and pedestrian overpasses, if the improvements are within a designated receiving site area or within one thousand five hundred feet of a receiving site. These amenities may also include programs that enhance the transportation system.

H. All amenity funding provided by King County to cities to facilitate the transfer of development rights shall be consistent with federal, state and local laws.

I. The timing and amounts of funds for amenities paid by King County to each participating city shall be determined in an adopted interlocal agreement. The interlocal agreement shall set forth the amount of funding to be provided by the county, an anticipated scope of work, work schedule and budget governing the use of the amenity funds. Except for the amount of funding to be provided by the county, these terms may be modified by written agreement between King County and the city. Such an agreement need not be in the form of an interlocal agreement. Such an agreement must be authorized by the TDR executive board. If amenity funds are paid to a city to operate a program, the interlocal agreement shall set the period during which the program is to be funded by King County.

J. A city that receives amenity funds from the county is responsible for using the funds for the purposes and according to the terms of the governing interlocal agreement.

K. To facilitate timely implementation of capital improvements or programs at the lowest possible cost, King County may make amenity payments as authorized in an interlocal agreement to a city before completion of the required improvements or implementation programs, as applicable. If all or part of the required improvements or implementation programs in an interlocal agreement to be paid for from King County funds are not completed by a city within five years from the date of the transfer of amenity funds, then, unless the funds have been used for substitute amenities by agreement of the city and King County, those funds, plus interest, shall be returned to King County and deposited into the originating amenity fund for reallocation to other TDR projects.

L. King County is not responsible for maintenance, operating and replacement costs associated with amenity capital improvements inside cities, unless expressly agreed to in an interlocal agreement. (Ord. 14190 § 17, 2001: Ord. 13733 § 14, 2000. Formerly K.C.C. 21A.55.250).

21A.37.160 Transfer of development rights (TDR) program - establishment and duties of the TDR executive board.

A. The TDR executive board is hereby established. The TDR executive board shall be composed of the director of the budget office, the director of the department of natural resources and parks, the director of the department of transportation and the director of finance, or their designees. A representative from the King County council staff, designated by the council chair, may participate as an ex officio, nonvoting member of the TDR executive board. The TDR executive board shall be chaired by the director of the department of natural resources and parks or that director's designee.

B. The issues that may be addressed by the executive board include, but are not limited to, using site evaluation criteria established by administrative rules, ranking and selecting sending sites to be purchased by the TDR bank, recommending interlocal agreements and the provision of TDR amenities, if any, to be forwarded to the executive, identifying future funding for amenities in the annual budget process, enter into other written agreements necessary to facilitate density transfers by the TDR bank and otherwise oversee the operation of the TDR bank to measure the effectiveness in achieving the policy goals of the TDR program.

C. The department of natural resources and parks shall provide lead staff support to the TDR executive board. Staff duties include, but are not limited to:

1. Making recommendations to the TDR executive board on TDR program and TDR bank issues on which the TDR executive board must take action;
2. Facilitating development rights transfers through marketing and outreach to the public, community organizations, developers and cities;
3. Identifying potential receiving sites;
4. Developing proposed interlocal agreements with cities;
5. Assisting in the implementation of TDR executive board policy in cooperation with other departments;
6. Ranking certified sending sites for consideration by the TDR executive board;
7. Negotiating with cities to establish city receiving areas with the provision of amenities;
8. Preparing agendas for TDR executive board meetings;
9. Recording TDR executive board meeting summaries;
10. Preparing administrative rules in accordance with K.C.C. chapter 2.98 to implement this chapter; and
11. Preparing periodic reports on the progress of the TDR program to the council with assistance from other departments. (Ord. 15032 § 49, 2004: Ord. 14763 § 4, 2003: Ord. 14561 § 30, 2002: Ord. 14199 § 245, 2001: Ord. 14190 § 18, 2001: Ord. 13733 § 15, 2000. Formerly K.C.C. 21A.55.260).

21A.37.170 Transfer of development rights (TDR) program - exemption from surplus provisions. The transfer of development rights from the TDR bank may be completed consistent with King County's needs and in accordance with the criteria of this chapter. The transfers are exempt from the real and personal property provisions of K.C.C. chapter 4.56. (Ord. 14190 § 19, 2001: Ord. 13733 § 16, 2000. Formerly K.C.C. 21A.55.270).

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Chapter 21A.38
GENERAL PROVISIONS - PROPERTY-SPECIFIC DEVELOPMENT STANDARDS/ SPECIAL DISTRICT OVERLAYS

Sections:

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21A.38.010 Purpose. The purposes of this chapter are to provide for alternative development standards to address unique site characteristics and to address development opportunities which can exceed the quality of standard developments, by:

A. Establishing authority to adopt property-specific development standards for increasing minimum requirements of this title on individual sites; or

B. Establishing special district overlays with alternative standards for special areas designated by community plans or the Comprehensive Plan. (Ord. 12171 § 4, 1996: Ord. 10870 § 574, 1993).

21A.38.020 Authority and application.

A. This chapter authorizes King County to increase development standards or limit uses on specific properties beyond the general requirements of this title through property-specific development standards, and to carry out comprehensive plan policies and map designations and community, subarea, or neighborhood plan policies through special overlay districts which supplement or modify standard zones through different uses, design or density standards or review processes;

B. Property-specific development standards shall be applied to specific properties through either area zoning as provided in K.C.C. 20.12 and 20.16, or reclassifications of individual properties as provided in K.C.C. 20.24 and 21A.44; and

C. Special district overlays shall be applied to specific properties or areas containing several properties through the area zoning process as provided in K.C.C. 20.12 and 20.16. (Ord. 12823 § 2, 1997: Ord. 12809 § 3, 1997: Ord. 12171 § 5, 1996: Ord. 10870 § 575, 1993).

21A.38.030 Property-Specific development standards - General provisions.

A. Property-specific development standards, denoted by the zoning map symbol -P after the zone's map symbol or a notation in the SITUS File, shall be established on individual properties through either reclassifications or area zoning. All property-specific development standards are contained in Appendix of Ordinance 12824* as currently in effect or hereinafter amended and shall be maintained by the department of development and environmental services in the Property Specific Development Conditions notebook. Upon the effective date of reclassification of a property to a zone with a -P suffix, the property-specific development standards adopted thereby shall apply to any development proposal on the subject property subject to county review, including, but not limited to, a building permit, grading permit, subdivision, short subdivision, subsequent reclassification to a potential zone, urban planned development, conditional use permit, variance, and special use permit.

B. Property-specific development standards shall address problems unique to individual properties or a limited number of neighboring properties that are not addressed or anticipated by general minimum requirements of this title or other regulations.

C. Property-specific development standards shall cite the provisions of this title, if any, that are to be augmented, limited, or increased, shall be supported by documentation that addresses the need for such condition(s), and shall include street addresses, tax lot numbers or other clear means of identifying the properties subject to the additional standards. Property-specific development standards are limited to:

1. Limiting the range of permitted land uses;

2. Requiring special development standards for property with physical constraints (e.g. environmental hazards, view corridors);

3. Requiring specific site design features (e.g. building orientation, lot layout, clustering, trails or access location);

4. Specifying the phasing of the development of a site;

5. Requiring public facility site dedications or improvements (e.g. roads, utilities, parks, open space, trails, school sites); or

***Available in the office of the clerk of the council.**

6. Designating sending and receiving sites for transferring density credits as provided in K.C.C. 21A.36.

D. Property-specific development standards shall not be used to expand permitted uses or reduce minimum requirements of this title. (Ord. 12824 § 21, 1997: Ord. 11621 § 97, 1994: Ord. 10870 § 576, 1993).

21A.38.040 Special district overlay — general provisions. Special district overlays shall be designated on official area zoning maps and as a notation in the department's electronic parcel record, as follows:

A. A special district overlay shall be designated through the area zoning process as provided in K.C.C. chapters 20.12 and 20.16. Designation of an overlay district shall include policies that prescribe the purposes and location of the overlay;

B. A special district overlay shall be applied to land through an area zoning process as provided in K.C.C. chapters 20.12 and 20.16 and shall be indicated on the zoning map and as a notation in the department's electronic parcel record and shall be designated in Appendix B of Ordinance 12824 as maintained by the department of development and environmental services, with the suffix "-SO" following the map symbol of the underlying zone or zones;

C. The special district overlays in this chapter are the only overlays authorized by the code. New or amended overlays to carry out new or different goals or policies shall be adopted as part of this chapter and be available for use in all appropriate community, subarea or neighborhood planning areas;

D. The special district overlays in this chapter may waive, modify and substitute for the range of permitted uses and development standards established by this title for any use or underlying zone;

E. Unless they are specifically modified by this chapter, the standard requirements of this title and other county ordinances and regulations govern all development and land uses within special district overlays;

F. A special district overlay on an individual site may be modified by property-specific development standards as provided in K.C.C. 21A.38.030;

G. A special district overlay may not be deleted by a zone reclassification; and

H. Special district overlay development standards may be modified or waived through the consideration of a variance, subject to the variance criteria in K.C.C. 21A.44.030. (Ord. 15051 § 216, 2004: Ord. 12823 § 3, 1997: Ord. 12809 § 4, 1997: Ord. 12171 § 6, 1996: Ord. 11621 § 98, 1994: Ord. 10870 § 577, 1993).

21A.38.050 Special district overlay - Pedestrian-oriented commercial development.

A. The purpose of the pedestrian-oriented commercial development special district overlay is to provide for high-density, pedestrian-oriented retail/employment uses. Pedestrian-oriented commercial district shall only be established in areas designated within a community, subarea, or neighborhood plan as an urban activity center and zoned CB, RB or O.

B. Permitted uses shall be those uses permitted in the underlying zone, excluding the following:

1. Motor vehicle, boat and mobile home dealer;
2. Gasoline service station;
3. Drive-through retail and service uses;
4. Car washes;
5. Retail and service uses with outside storage, e.g. lumber yards, miscellaneous equipment rental or machinery sales;
6. Wholesale uses;
7. Recreation/cultural uses as set forth in K.C.C. 21A.08.040, except parks, sports clubs, theaters, libraries and museums;
8. SIC Major Group 75 (Automotive repair, services and parking) except 7521 (automobile parking; but excluding tow-in parking lots);
9. SIC Major Group 76 (Miscellaneous repair services), except 7631 (Watch, clock and jewelry repair);
10. SIC Major Group 78 (Motion pictures), except 7832 (theater) and 7841 (video tape rental);

11. SIC Major Group 80 (Health services), except offices and outpatient clinics (801-804);
12. SIC Industry Group 421 (Trucking and courier service);
13. Public agency archives;
14. Self-service storage;
15. Manufacturing land uses as set forth in K.C.C. 21A.08.080, except 2759 (Commercial printing); and
16. Resource land uses as set forth in K.C.C. 21A.08.090.

C. The following development standards shall apply to uses located in pedestrian-oriented commercial overlay districts:

1. Every use shall be subject to pedestrian-oriented use limitations and street facade development standards (e.g. placement and orientation of buildings with respect to streets and sidewalks, arcades or marquees) identified and adopted through an applicable community, subarea or, neighborhood plan, or the area zoning process;

2. For properties that have frontage on pedestrian street(s) or routes as designated in an applicable plan or area zoning process, the following conditions shall apply:

a. main building entrances shall be oriented to the pedestrian street;

b. at the ground floor (at grade), buildings shall be located no more than 5 feet from the sidewalk or sidewalk improvement, but shall not encroach on the public right-of-way;

c. building facades shall comprise at least 75% of the total pedestrian street frontage for a property and if applicable, at least 75% of the total pedestrian route frontage for a property;

d. minimum side setbacks of the underlying zoning are waived;

e. building facades of ground floor retail, general business service, and professional office land uses that front onto a pedestrian street or route shall include windows and overhead protection;

f. building facades along a pedestrian street or route, that are without ornamentation or are comprised of uninterrupted glass curtain walls or mirrored glass are not permitted; and

g. vehicle access shall be limited to the rear access alley or rear access street where such an alley or street exists.

3. Floor/lot area ratio shall not exceed 5:1, including the residential component of mixed use developments, but not including parking structures;

4. Building setback and height requirements may be waived, except for areas within fifty feet of the perimeter of any special district overlay area abutting an R-12 or lower density residential zone;

5. The landscaping requirements of K.C.C. 21A.16 may be waived if landscaping conforms to a special district overlay landscaping plan adopted as part of the area zoning. The overlay district landscaping plan shall include features addressing street trees, and other design amenities (e.g. landscaped plazas or parks);

6. On designated pedestrian streets, sidewalk width requirements shall be increased to a range of ten to twelve feet wide including sidewalk landscaping and other amenities. The sidewalk widths exceeding the amount required in the King County Road Standards may occur on private property adjoining the public street right-of-way; and

7. Off-street parking requirements K.C.C. 21A.18 are modified as follows for all nonresidential uses:

a. No less than one space for every 1000 square feet of floor area shall be provided;

b. No more than seventy-five percent of parking shall be on-site surface parking. Such parking shall be placed in the interior of the lot, or at the rear of the building it serves; and

c. At least twenty-five percent of the required parking shall be enclosed in an on-site parking structure or located at an off-site common parking facility, provided that this requirement is waived when the applicant signs a no protest agreement to participate in any improvement district for the future construction of such facilities. (Ord. 13022 § 30, 1998: Ord. 12823 § 4, 1997: Ord. 10870 § 578, 1993).

21A.38.060 Special district overlay - office/research park development.

A. The purpose of the office/research park special district overlay is to establish an area for development to occur in a campus setting with integrated building designs, flexible grouping of commercial and industrial uses, generous landscaping and buffering treatment, and coordinated auto and pedestrian circulation plans. Office/research park districts shall only be established in areas designated within a community plan and zoned RB, O or I zones. Permitted uses shall include all uses permitted in the RB, O and I zones, as set forth in K.C.C. chapter 21A.08, regardless of the classification used as the underlying zone on a particular parcel of land.

B. The following development standards shall apply to uses locating in office/research park overlay districts:

1. All uses shall be conducted inside an entirely enclosed building;

2. An internal circulation plan shall be developed to facilitate pedestrian and vehicular traffic flow between major project phases and individual developments;

3. The standards in this section shall be applied to the development as a unified site, not withstanding any division of the
development site under a binding site plan or subdivision;

4. All buildings shall maintain a fifty-foot setback from perimeter streets and from residential zoned areas;

5. The total permitted impervious lot coverage shall be eighty-percent. The remaining twenty-percent shall be devoted to open space. Open space may include all required landscaping, and any unbuildable critical areas and their associated buffers;

6. The landscaping standards in K.C.C. chapter 21A.16 are modified as follows:

a. Twenty-foot wide Type II landscaping shall be provided along exterior streets, and twenty-foot wide Type III landscaping shall be provided along interior streets;

b. Twenty-foot wide Type I landscaping shall be provided along property lines adjacent to residential zoned areas;

c. Fifteen-foot wide Type II landscaping shall be provided along lines adjacent to nonresidential zoned areas; and

d. Type IV landscaping shall be provided within all surface parking lots as follows:

(1) Fifteen percent of the parking area, excluding required perimeter landscaping, shall be landscaped in parking lots with more than thirty-parking stalls;

(2) At least one tree for every four parking stalls shall be provided, to be reasonably distributed throughout the parking lot; and

(3) No parking stall shall be more than forty-feet from some landscaping;

e. An inventory of existing site vegetation shall be conducted pursuant to the procedures in K.C.C. chapter 21A.16, and

f. An overall landscaping plan that conforms to the requirements of this subsection shall be submitted for the entire district or each major development phase prior to the issuance of any site development, grading or building permits;

7. Lighting within an office/industrial park shall shield the light source from the direct view of surrounding residential areas;

8. Refuse collection/recycling areas and loading or delivery areas shall be located at least one hundred feet from residential areas and screened with a solid view obscuring barrier;

9. Off street parking standards as in K.C.C. chapter 21A.18 are modified as follows:

a. one space for every three hundred square feet of floor area shall be provided for all uses, except on-site daycare, exercise facilities, eating areas for employees, archive space for tenants and retail/service uses;

b. parking for on-site daycare, exercise facilities, eating areas for employees, archive space for tenants, and retail/service uses shall be no less than one space for every one thousand square feet of floor area and no greater than one space for every five hundred square feet of floor area; and

c. at least twenty-five percent of required parking shall be located in a parking structure; and

10. Sign standards in K.C.C. chapter 21A.20 are modified as follows:

a. Signs visible from the exterior of the park shall be limited to one monument office/research park identification sign at each entrance. The signs shall not exceed an area of sixty-four square feet per sign;

b. no pole signs shall be permitted; and

c. all other signs shall be visible only from within the park. (Ord. 15606 § 25, 2006: Ord.11621 § 100, 1994: Ord. 10870 § 579, 1993).

21A.38.070 Special district overlay - Urban planned development (UPD) purpose and designation.

A. The purpose of the UPD special district overlay is to provide a means for community, subarea or neighborhood plans to designate urban areas which are appropriate for development on a large scale basis:

B. In designating an overlay district, the comprehensive plan, subarea plan, neighborhood plan or area zoning shall delineate UPD overlay district boundaries.

C. The community plan, subarea plan, neighborhood plan; or area zoning shall designate and adopt urban residential zoning consistent with comprehensive plan policies.

D. In designating an overlay district, the community plan, subarea plan, neighborhood plan or area zoning may:

1. Set a maximum or range of the number of dwelling units within the UPD; and

2. Incorporate project description elements or requirements to the extent known, including but not limited to the following: conceptual site plan; mix of attached and detached housing; affordable housing goals and/or programs; major transportation or other major infrastructure programs and the UPD's participation therein; and any other provision or element deemed appropriate. (Ord. 12823 § 5, 1997: Ord. 10870 § 580, 1993).

21A.38.080 Special district overlay - UPD implementation. Implementation of the UPD designation shall comply with the following:

A. The minimum site size for an UPD permit application shall be not less than 200 acres. "Site size" for purposes of this subsection means contiguous land under one ownership or under the control of a single legal entity responsible for submitting an UPD permit application and for carrying out all provisions of the development agreement; and

B. The UPD shall comply with the standards and procedures set out in Chapter 21A.39. (Ord. 10870 § 581, 1993).

21A.38.090 Special district overlay - Economic redevelopment.

A. The purpose of the economic redevelopment special district overlay is to provide incentives for the redevelopment of large existing, underutilized concentrations of commercial/industrial lands within urban areas.

B. The economic redevelopment special district overlay shall only be designated through the area zoning process; located in areas designated within a community, subarea or neighborhood plan as an activity center; and zoned CB, RB, O, or I.

C. The standards of this title and other county codes shall be applicable to development within the economic redevelopment special district overlay except as follows:

1. Commercial or industrial uses that exist within an area as of the effective date of legislation applying the economic redevelopment special district overlay, but that are not otherwise permitted by the zoning, shall be considered permitted uses upon only the lots that they occupied as of that date.

2. The minimum parking requirements of this title shall be reduced as follows, provided that such reductions do not apply to new construction on vacant property or the vacant portions of partially-developed property where that construction is not an enlargement or replacement of an existing building:

a. The parking stall requirements are reduced 100 percent provided that:

(1) the square footage of any enlargement or replacement of an existing building does not in total exceed 125 percent of the square footage of the existing building;

(2) the building fronts on an existing roadway improved to urban standards or a roadway programmed to be improved to urban standards as a capital improvement project, that accommodates on-street parking; and

(3) there is no net decrease in existing off-street parking space.

b. the parking stall requirements are reduced 50 percent provided that:

(1) the square footage of any enlargement or replacement of an existing building in total exceeds 125 percent of the square footage of the existing building;

(2) the height of the enlarged or replacement building does not exceed the base height of the zone in which it is located;

(3) the building fronts on an existing roadway improved to urban standards or a roadway programmed to be improved as a capital improvement project, that accommodates on-street parking; and

(4) there is no net decrease in existing off-street parking spaces, unless it exceeds the minimum requirements of subsection C.2.b.

3. The landscaping requirements of this title shall be waived, provided that:

a. street trees, installed and maintained by the adjacent property owner, shall be substituted in lieu of landscaping; and

b. any portion of the overlay district that directly abuts properties outside of the district shall provide, along said portions, a landscape buffer area no less than 50 percent of that required by this title.

4. The setback requirements of this title shall be waived, provided that:

a. setback widths along any street forming a boundary of the overlay district shall comply with this title, and

b. any portion of the overlay district that directly abuts properties outside of the district shall provide, along said portions, a setback no less than 50 percent of that required by this title.

5. The building height limits of this title shall be waived, provided that the height limit within 50 feet of the perimeter of the overlay district shall be 30 feet.

6. Signage shall be limited to that allowed within the CB zone.

7. The roadway improvements of the King County code shall be waived, provided a no-protest agreement to participate in future road improvement districts (RID) is signed by an applicant and recorded with the county.

8. The pedestrian circulation requirements of this title shall be waived.

9. The impervious surface and lot coverage requirements of this title shall be waived.

10. On I zoned lands that are designated in the comprehensive plan as unincorporated activity centers, conditional use permits shall not be issued where the resulting impacts such as noise, smoke, odor and glare would be inconsistent with the maintenance of nearby viable commercial and residential areas.

D. For properties that have frontage on pedestrian street(s) or routes as designated in an applicable plan or area zoning process, the following conditions shall apply:

1. main building entrances shall be oriented to the pedestrian street;

2. at the ground floor (at grade), buildings shall be located no more than 5 feet from the sidewalk or sidewalk improvement, but in no instance shall encroach on the public right-of-way;

3. building facades shall comprise at least 75% of the total pedestrian street frontage for a property, and if applicable, at least 75% of the total pedestrian route frontage for a property;

4. minimum side setbacks of the underlying zoning are waived;

5. building facades of ground floor retail, general business service, and professional office land uses, that front onto a pedestrian street or route shall include windows and overhead protection;

6. building facades, along a pedestrian street or route, that are without ornamentation, or are comprised of uninterrupted glass curtain walls or mirrored glass are not permitted; and

7. vehicle access shall be limited to the rear access alley or rear access street where such an alley or street exists. (Ord. 12823 § 6, 1997: Ord. 11566 § 1, 1994: 11351 § 1, 1994).

21A.38.100 Special district overlay - Commercial/industrial.

A. The purpose of the commercial/industrial special district overlay is to accommodate and support existing commercial/industrial areas outside of activity centers by providing incentives for the redevelopment of underutilized commercial or industrial lands and by permitting a range of appropriate uses consistent with maintaining the quality of nearby residential areas.

B. The commercial/industrial special district overlay shall be designated only through the area zoning process and applied to areas substantially developed with a mix of commercial and light industrial uses and zoned CB, RB, O, or I.

C. The standards of this title and other county codes shall be applicable to development within the commercial/industrial special district overlay except as follows:

1. Legally-established commercial or industrial uses that exist within an area as of the effective date of legislation applying the commercial/industrial special district overlay, but that are not otherwise permitted by the zoning, shall be considered permitted uses upon only the lots that they occupied as of that date.

2. Permitted uses within the area of a commercial/industrial special district overlay shall include those uses permitted in the base zone applied therein as well as permitted uses as set forth in the I zone with the exception of the following:

a. any use permitted in the I zone requiring a conditional use permit;

b. auction houses;

c. livestock sales;

d. SIC Industry Group 201 (meat products);

e. SIC Industry Group 202 (dairy products);

f. SIC Industry Group 204 (grain mill products);

g. SIC Industry Group 207 (fats and oils);

h. motor vehicle and boat dealers;

i. SIC Major Group 24 (lumber and wood products, except furniture) except 2431 (millwork) and 2434 (wood kitchen cabinets);

j. SIC Industry Group 311 (leather tanning and finishing);

k. SIC Major Group 32 (stone, clay, glass and concrete products);

l. SIC Industry 3999 (manufacturing industries, not elsewhere classified) dressing of furs, fur stripping and pelts only;

m. SIC Industry 7534 (tire retreading);

n. SIC Major Group 02 (agricultural production--livestock and animal specialties);

o. SIC Industry 2951 (asphalt paving mixtures and blocks);

p. resource accessory uses, and

q. outdoor storage of equipment or materials occupying more than 25% of the site associated with: SIC Major Group 15 (building construction--contractors and operative builders), SIC Major Group 16 (heavy construction other than building construction--contractors), SIC Major Group 17 (construction--special trade contractors) and, SIC Industry 7312 (outdoor advertising services); provided, that such outdoor storage be visually screened from surrounding properties.

4. Uses permitted both by the base zone applied to the property and through the application of the commercial/industrial special district overlay shall be subject to the limitations on use found in the base zone in K.C.C. 21A.08 except for commercial/industrial accessory uses to which the limitations on use in the base zone shall not apply.

5. The minimum parking requirements of this title shall be reduced as follows, provided that such reductions do not apply to new construction on vacant property or the vacant portions of partially-developed property where that construction is not an enlargement or replacement of an existing building:

a. the parking stall requirements are reduced 100 percent provided that:

(1) the square footage of any enlargement or replacement of an existing building does not in total exceed 125 percent of the square footage of the existing building;

(2) the building fronts on an existing roadway improved to urban standards or a roadway programmed to be improved to urban standards as a capital improvement project, that accommodates on-street parking; and

(3) there is no net decrease in existing off-street parking space.

b. the parking stall requirements are reduced 50 percent provided that:

(1) the square footage of any enlargement or replacement of an existing building in total exceeds 125 percent of the square footage of the existing building;

(2) the height of the enlarged or replacement building does not exceed the base height of the zone in which it is located;

(3) the building fronts on an existing roadway improved to urban standards or a roadway programmed to be improved to urban standards as a capital improvement project, that accommodates on-street parking; and

(4) there is no net decrease in existing off-street parking spaces, unless it exceeds the minimum requirements of subsection C.5.b.

6. The landscaping requirements of this title shall be waived, provided that:

a. street trees, installed and maintained by the adjacent property owner, shall be substituted in lieu of landscaping; and

b. any portion of the overlay district that directly abuts properties outside of the district shall provide, along said portions, a landscape buffer area no less than 50 percent of that required by this title.

7. The setback requirements of this title shall be waived, provided that:

a. setback widths along any street forming a boundary of the overlay district shall comply with this title; and

b. any portion of the overlay district that directly abuts properties outside of the district shall provide, along said portions, a setback no less than 50 percent of that required by this title.

8. The building height limits of this title shall be waived, provided that the height limit within 50 feet of the perimeter of the overlay district shall be 30 feet.

9. Signage shall be limited to that allowed within the CB zone.

10. The roadway improvements of the King County code shall be waived, provided a no-protest agreement to participate in future road improvement districts (RID) is signed by an applicant and recorded with the county.

11. The pedestrian circulation requirements of this title shall be waived.

12. The impervious surface and lot coverage requirements of this title shall be waived.

D. The following standards shall be applicable to unincorporated activity centers as designated in the comprehensive plan and located within the commercial/industrial special district overlay:

1. For properties that have frontage on pedestrian street(s) or routes as designated in an applicable plan or area zoning process, except for gasoline service stations (SIC 5541) and grocery stores (SIC 5411) that also sell gasoline, the following conditions shall apply:

a. main building entrances shall be oriented to the pedestrian street;

b. at the ground floor (at grade), buildings shall be located no more than 5 feet from the sidewalk or sidewalk improvement, but in no instance shall encroach on the public right-of-way;

c. building facades shall comprise at least 75% of the total pedestrian street frontage for a property, and if applicable, at least 75% of the total pedestrian route frontage for a property;

d. minimum side setbacks of the underlying zoning are waived;

e. building facades of ground floor retail, general business service, and professional office land uses, that front onto a pedestrian street or route shall include windows and overhead protection;

f. building facades, along a pedestrian street or route, that are without ornamentation, or are comprised of uninterrupted glass curtain walls or mirrored glass are not permitted; and

g. vehicle access shall be limited to the rear access alley or rear access street where such an alley or street exists. (Ord. 12823 § 7, 1997: Ord. 11567 § 1, 1994).

21A.38.110 Special district overlay - Fully contained community (FCC) purpose, designation, and implementation.

A. the purpose of the FCC special district overlay is to provide a means to designate a limited number of areas which are uniquely appropriate for conversion to urban development on a large scale basis.

B. In designating an overlay district, the Comprehensive Plan and area zoning shall:

1. Delineate FCC overlay district boundaries; and

2. Ensure that surrounding properties are classified with rural residential zoning consistent with community plan and comprehensive plan policies in order to restrict future urban development in the area solely to the FCC site.

C. In designating an overlay district, the Comprehensive Plan and area zoning may:

1. Set a maximum or range of the number of dwelling units within the FCC; and

2. Incorporate project description elements or requirements to the extent known, including but not limited to the following: conceptual site plan; mix of attached and detached housing; affordable housing goals and/or

(programs; major transportation or other major infrastructure programs and FCC's participation therein; any other provision or element deemed appropriate.

D. Implementation of the FCC shall be accomplished by complying with the standards and procedures set forth in 21A.39. (Ord. 12171 § 7, 1996).

21A.38.120 Special district overlay - Wetland management areas.

A. The purpose of the wetland management area special overlay district is to provide a means to designate certain unique and outstanding wetlands when necessary to protect their functions and values from the impacts created from geographic and hydrologic isolation and impervious surface.

B. The following development standards shall be applied in addition to all applicable requirements of K.C.C. chapter 21A.24 to development proposals located within a wetland management area district overlay:

1. All subdivisions and short subdivisions on residentially zoned properties that are identified in an adopted basin plan for impervious surface limitations, shall have a maximum impervious surface area of eight percent of the gross acreage of the plat. For areas that are not covered by an adopted basin plan, this limit shall apply to all residentially zoned lands located within the wetland management area. Distribution of the allowable impervious area among the platted lots shall be recorded on the face of the plat. Impervious surface of existing roads need not be counted towards the allowable impervious area. This condition may be modified by the director for the minimum necessary to accommodate unusual site access conditions;

2. All subdivisions and short subdivisions on properties identified in an adopted basin plan for clustering and setaside requirements shall be required to cluster away from wetlands or the axis of corridors along stream tributaries and identified swales connecting wetlands in order to minimize land disturbance and maximize distance from these sensitive features. At least sixty-five percent of affected portions of RA-zoned properties and at least fifty percent of all other affected portions of the property shall be left in native vegetation, preferably forest, and placed in a permanent open space tract. In the absence of a basin plan, these requirements shall apply to all lands containing or adjacent to a wetland, a stream tributary corridor or a swale connecting wetlands; and

3. Clearing and grading activity from October 1 through March 31 shall meet the provisions of K.C.C. 16.82.150D wherever not already applicable. (Ord. 13307 § 1, 1998: Ord. 12823 § 14, 1997: Ord. 12809 § 5, 1997).

21A.38.130 Special district overlay - agricultural production buffer.

A. The purpose of the agricultural production buffer special district overlay is to provide a buffer between agricultural and upslope residential land uses. An agricultural production buffer special district overlay shall only be established in areas adjacent to an agricultural production district and zoned RA.

B. The following development standard shall apply to residential subdivisions locating in an agricultural production buffer special district overlay: Lots shall be clustered in accordance with K.C.C. 21A.14.040 and at least seventy-five percent of a site shall remain as open space, unless greater lot area is required by the Seattle-King County department of public health. (Ord. 15032 § 50, 2004: Ord. 12823 § 8, 1997).

21A.38.140 Special district overlay - Residential infill.

A. The purpose of the residential infill special district overlay is to require the consolidation of individual parcels as a single development project when a subdivision application of one or more acres is made. A residential infill district overlay shall only be established in areas zoned R-8.

B. The following development standards shall apply to uses locating in a residential infill district overlay:

1. Recreation and open space shall be sited adjacent to any existing utility right-of-way corridor(s) or recreation and open space wherever feasible; and

2. Pedestrian access shall be provided to adjacent utility right-of-way corridor(s) as found necessary by department staff. (Ord. 12823 § 9, 1997).

21A.38.150 Special district overlay - Ground water protection.

A. The purpose of the ground water protection special district overlay is to limit land uses that have the potential to severely contaminate groundwater supplies and to provide increased areas of permeable surface to allow for infiltration of surface water into ground resources.

B. For all commercial and industrial development proposals, at least 40 percent of the site shall remain in natural vegetation or planted with landscaping, which area shall be used to maintain predevelopment infiltration rates for the entire site. For purposes of this special district overlay, the following shall be considered commercial and industrial land uses:

1. amusement/entertainment land uses as defined by K.C.C. 21A.08.040 except golf facilities;

2. general services land uses as defined by K.C.C. 21A.08.050 except health and educational services, daycare 1, churches, synagogues, and temples;

3. government/business services land uses as defined by K.C.C. 21A.08.060 except government services;

4. retail/wholesale land uses as defined by K.C.C. 21A.08.070 except forest product sales and agricultural product sales;

5. manufacturing land uses as defined by K.C.C. 21A.08.080; and,

6. mineral extraction and processing land uses as defined by K.C.C. 21A.08.090.

C. Permitted uses within the area of the ground water protection special district overlay shall be those permitted in the underlying zone, excluding the following as defined by Standard Industrial Classification number and type:

1. SIC 4581, airports, flying fields, and airport terminal services;

2. SIC 4953, refuse systems, (including landfills and garbage transfer stations operated by a public agency);

3. SIC 4952, sewerage systems (including wastewater treatment facilities); and

4. SIC 7996, amusement parks; SIC 7948, racing, including track operation; or other commercial establishments or enterprises involving large assemblages of people or automobiles except where excluded by section B above;

5. SIC 0752, animal boarding and kennel services;
6. SIC 1721, building painting services;
7. SIC 3260, pottery and related products manufacturing;
8. SIC 3599, machine shop services;
9. SIC 3732, boat building and repairing;
10. SIC 3993, electric and neon sign manufacturing;
11. SIC 4226, automobile storage services;
12. SIC 7334, blueprinting and photocopying services;
13. SIC 7534, tire retreading and repair services;
14. SIC 7542, car washes;
15. SIC 8731, commercial, physical and biological research laboratory services;
16. SIC 02, interim agricultural crop production and livestock quarters or grazing on properties 5 acres or larger in size;
17. SIC 0752, public agency animal control facility;
18. SIC 2230, 2260, textile dyeing;
19. SIC 2269, 2299, textile and textile goods finishing;
20. SIC 2700, printing and publishing industries;
21. SIC 2834, pharmaceuticals manufacturing;
22. SIC 2844, cosmetics, perfumes and toiletries manufacturing;
23. SIC 2893, printing ink manufacturing;
24. SIC 3000, rubber products fabrication;
25. SIC 3111, leather tanning and finishing;
26. SIC 3400, metal products manufacturing and fabrication;
27. SIC 3471, metal electroplating;
28. SIC 3691, 3692, battery rebuilding and manufacturing;
29. SIC 3711, automobile manufacturing; and
30. SIC 4600, petroleum pipeline operations. (Ord. 12823 § 10, 1997).

21A.38.160 Special district overlay - Aviation facilities.

A. The purpose of the aviation facilities special district overlay is to protect existing non-commercial airports from encroaching residential development. An aviation facilities special district overlay shall only be established in the area up to 1/4 mile around airports and shall be zoned UR or RA.

B. The following development standards shall apply to uses locating in aviation facilities special overlay districts:

On the title of all properties within pending short subdivisions or subdivisions and binding site plans, the following statement shall be recorded and be shown to all prospective buyers of lots or homes:

"This property is located near the (name of airport) which is recognized as a legitimate land use by King County. Air traffic in this area, whether at current or increased levels, is consistent with King County land use policies provided it conforms to all applicable state and federal laws." (Ord. 12823 § 11, 1997).

21A.38.170 Special district overlay - Urban aquifer protection area.

A. The purpose of the urban aquifer protection area special district overlay is to provide additional protection for urban areas that are highly susceptible to ground water contamination. An urban aquifer protection area
special district overlay shall only be established within areas designated in the comprehensive plan as highly susceptible to ground water contamination, including the surrounding area up to 1/2 mile, and zoned UR, R, NB, CB, O, and I.

B. Permitted uses shall be those permitted in the underlying zone, excluding the following as defined by Standard Industrial Classification (SIC) number and type:

1. SIC 4953, refuse systems (including hazardous waste recycling or treatment and solid waste landfills);
2. SIC 461, pipelines, except natural gas (including petroleum pipelines); and
3. businesses maintaining open storage of toxic substances.

C. New septic tank drainfield systems shall be prohibited. (Ord. 12823 § 12, 1997).

21A.38.180 Special district overlay - Highway-oriented development.

A. The purpose of the highway-oriented development special district overlay is to ensure the compatibility of highway-oriented land uses adjacent to rural residential and resource land uses. A highway-oriented special district overlay shall only be established along existing or former state or U.S. highway route corridors and zoned RA, UR, NB, RB or I.

B. Except in the RB zone at highway interchanges, permitted uses in the RA, UR, NB, RB or I zones shall be those in the underlying zone, excluding the following as defined by Standard Industrial Classification (SIC) number and type:

1. SIC 5812, eating places; and
2. SIC 5813, drinking places.

C. Permitted uses in the RB zone at highway interchanges shall be limited to the following highway oriented commercial services for the traveling public, as defined by Standard Industrial Classification (SIC) number and type:

1. SIC 5411, grocery stores (including convenience stores);
2. SIC 5541, gasoline service stations;
3. SIC 5812, eating places; and
4. SIC 7011, hotels and motels.

D. The following development standards shall apply to uses located in highway-oriented overlay districts:

1. Business signs are limited to those allowed in the NB zone classification. Ground supported signs shall not exceed five feet in height.

2. Natural vegetation shall be retained wherever possible, and landscaping shall be used for screening. The following commercial screening matrix shall be applied where NB, RB and I zoned properties, and properties with potential NB, RB or I zoning, have common boundaries with rural or resource zoned lands. The purpose of this is to allow for adequate buffering between commercial or industrial and rural land uses.

Commercial Screening Matrix

Adjacent Property Zoning	Commercial Property Zoning		
	NB Neighborhood Business	RB Regional Business	I Industrial
RA (Rural Area)	Type I Buffer 30’ Depth	Type I Buffer 30’ Depth	Type I Buffer 50’ Depth
F (Forest) A (Agricultural)	Type I Buffer 30’ Depth	Type I Buffer 50’ Depth	Type I Buffer 50’ Depth

3. Primary vehicular access shall be from a principal arterial road. Secondary vehicular access shall be from a collector arterial road.

4. At the time of site plan review, the county may require additional right-of-way dedication to provide new roadways.

5. Utilities in RB zones shall be placed underground.

6. All uses shall be evaluated for impacts to ground water quality. (Ord. 12823 § 13, 1997).

21A.38.200 Special district overlay - Erosion hazards near sensitive water bodies.

A. The purpose of the erosion hazards near sensitive water bodies special overlay district is to provide a means to designate sloped areas posing erosion hazards which drain directly to lakes or streams of high resource value which are particularly sensitive to the impacts of increased erosion and the resulting sediment loads from development.

B. The following development standards shall be applied in addition to all applicable requirements of K.C.C. 21A.24 to development proposals located within erosion hazards near a sensitive water bodies district overlay:

1. A no-disturbance area shall be established on the sloped portion of the special district overlay to prevent damage from erosion. Land clearing or development shall not occur in the no-disturbance area, except for the clearing activities listed in subsection a. Clearing activities listed in subsection a shall only be permitted if they meet the requirements of subsection b.

a. Clearing activities may be permitted as follows:

i. for the construction of single family residences on pre-existing separate lots;

ii. for the construction of utility corridors to service existing development along existing rights-of-way including any vacated portions of otherwise contiguous rights-of-way;

iii. for the construction of roads providing sole access to buildable property and associated utility facilities within those roadways; or

iv. for the construction of development within an isolated no-disturbance area of two acres or less in size. The isolated no-disturbance area is either geologically separated from other no-disturbance areas or lies completely within a separate drainage subbasin and is, therefore, hydrologically isolated from the rest of the no-disturbance area.

b. The clearing activities listed in subsection *a*. may be permitted only if the following requirements are met:

i. a report which meets the requirements of K.C.C. 21A.24.120 shall show that the clearing activities will not subject the area to risk of landslide or erosion and that the purpose of the no-disturbance area is not compromised in any way;

ii. the clearing activities shall be mitigated, monitored and bonded consistent with the mitigation requirements applicable to sensitive areas regulated in K.C.C. 21A.24;

iii. the clearing activities are limited to the minimal area and duration necessary for construction; and

iv. the clearing activities are consistent with K.C.C. 21A.24.

2. The upslope boundary of the no-disturbance area lies at the first obvious break in slope from the upland plateau over onto the steep valley walls. The downslope boundary of this zone includes those areas designated as erosion or landslide hazard areas pursuant to K.C.C. 21A.24.220 and 21A.24.280. The sensitive areas folio indicates the general location of these hazard areas, but it cannot be used to specify the areas' precise boundaries. Maps of the approximate boundaries of these no-disturbance zones shall be available at the department. Single family or multi-family residential density from the no-disturbance area may be reallocated onto any buildable portion of the site pursuant to K.C.C. 21A.12.080, or transferred to other sites pursuant to K.C.C. 21A.36;

3. New development proposals for sites which drained predeveloped runoff to the no-disturbance zone shall evaluate the suitability of onsite soils for infiltration. All runoff from newly constructed impervious surfaces shall be retained on-site unless this requirement precludes the ability to meet minimum density requirements in K.C.C. 21A.12. When minimum density cannot be met, runoff shall be retained on-site as follows:

a. Infiltration of all site runoff shall be required in granular soils as defined in the King County Surface Water Design Manual.

b. Infiltration of downspouts shall be required in granular soils and in soil conditions defined as allowable in the Surface Water Design Manual when feasible to fit the required trench lengths onsite;

c. When infiltration of downspouts is not feasible, downspout dispersion trenches shall be required when minimum flow paths defined in the Surface Water Design Manual can be met onsite or into adjacent open space; and

d. When dispersion of downspouts is not feasible, downspouts shall be connected to the drainage system via perforated pipe.

4. For the portions of proposed subdivisions, short subdivisions and binding site plans that cannot infiltrate runoff up to the 100-year peak flow, at least 25 percent shall remain undisturbed and set aside in an open space tract consistent with K.C.C. 21A.24.150-180; and

5. For the portions of all development proposals that cannot infiltrate runoff up to the 100-year peak flow, no more than 35 percent of the gross site area shall be covered by impervious surfaces. For new subdivisions and short subdivisions, maximum lot coverage should be specified for subsequent residential building permits on individual lots.

6. If the application of this section would deny all reasonable use of property, the applicant may apply for a reasonable use exception pursuant to K.C.C. 21A.24.070B.

7. The director may modify the property specific development standards required by B.1 through B.5 of this section, when a development proposal complies with the following:

a. The proposed development is subject to public/private partnerships such as an approved community block grant or other such water quality program designed to improve water quality in the basin,

b. The proposed development is designated by King County, in consultation with the Lake Sammamish Management Committee, as a demonstration project designed to implement best management practices and state of the art technology that assures the greatest possible improvement to water quality, and

c. A site specific study is conducted by the applicant and approved by the director, which demonstrates that the proposed development substantially increases water quality by showing the following:

(1) water quality on-site is improved;

(2) the development project will not subject downstream channels to increased risk of landslide or erosion;

(3) the development project will not subject the nearest sensitive water body to additional erosion hazards; and

(4) the project is consistent with element a. and b. above, and provides predictable improvements to the water quality of Lake Sammamish. (Ord. 12823 § 15, 1997).

21A.38.210 Special district overlay - heron habitat protection area.

A. The purpose of the heron habitat protection area special district overlay is to provide a means to designate areas that provide essential feeding, nesting and roosting habitat for identified great blue heron rookeries. A district overlay will usually contain several isolated areas of known heron habitat in the general region surrounding the heron rookery.

B. The following development standards shall be applied in addition to all applicable requirements of K.C.C. chapter 21A.24 and Title 25 to development proposals located within a heron habitat protection area district overlay:

1. The following conditions shall apply to the wetland or along the main channel of the stream riparian zone containing the heron rookery (tributary streams are excluded):

a. The one-hundred-year floodplain shall be left undisturbed. Development proposals on individual lots shall require the one-hundred-year floodplain to retain the native vegetation and be placed in a county-approved conservation easement or notice shall be placed on the title of the lot. The notice shall be approved by King County and filed with the records, elections and licensing services division. The notice shall inform the public of the presence and location of the floodplain and heron habitat on the property and that limitations on actions in or affecting the area exist. Subdivisions, short subdivisions and binding site plans shall require the one-hundred-year floodplain to retain the native vegetation and be placed in a critical areas tract, to be dedicated to the homeowner's association or other legal entity that assumes maintenance and protection of the tract. Determination of the floodplain shall be done for each permit application based on actual field survey using county-approved floodplain elevations;

b. There shall be a six-hundred-sixty-foot radius buffer maintained around the periphery of the great blue heron rookery. If the critical areas and buffers are not adequate to provide the radius, then the buffer shall be expanded to meet the requirement. A rookery and its buffer shall be designated as critical area tract, easement or noticed on title as required in this subsection; and

c. All access shall be restricted under nest trees from February 15 to July 31 and noted on signage at the floodplain or buffer edge, whichever is further from the rookery. Access may be further restricted with fencing or dense plantings with native plant material approved by the county. All developments in R-12 or higher density zones shall restrict access and provide an interpretive sign that provides information about the stream or wetland and its wildlife, biological, and hydrological functions. All signs shall be consistent with critical area signage requirements and subject to review and approval of the county;

2. Subdivisions, short subdivisions, binding site plans, site development permits or other commercial or multifamily permits adjacent to stream reaches and wetlands designated on the heron habitat protection area district overlay map, shall provide buffers that are fifty feet greater than required pursuant to K.C.C. chapter 21A.24 along those streams and wetlands to provide habitat for herons. This additional fifty-foot buffer shall be planted with dense native plant material to discourage human intrusion into feeding or nesting and roosting areas. Plantings shall be reviewed and approved by the department. If conformance with the additional buffer requirement results in an unbuildable lot, then the minimum variation necessary to accommodate the proposed development shall be determined in consultation with county biologists and be reviewed and approved by the department;

3. Along the shoreline of lakes and river corridors included in the heron habitat protection area, all subdivisions, short subdivisions, binding site plans, site development permits or other commercial or multifamily permits shall provide a fifty-foot buffer in addition to required shoreline setbacks of K.C.C. Title 25 and chapter 21A.24. Along the shoreline of the major rivers (Sammamish, Green, Cedar, Snoqualmie, Snohomish, Skykomish and White rivers), the setback requirement may be waived if a special wildlife study shows no great blue heron nesting, roosting and feeding areas on the site. These studies shall be done by a wildlife biologist and approved by county biologists. This additional fifty-foot buffer shall be planted with dense native plant material to discourage human intrusion into feeding or nesting and roosting areas. Plantings shall be reviewed and approved by the department; and

4. New docks, piers, bulkheads and boat ramps constructed within the heron habitat protection area shall mitigate for loss of heron feeding habitat by providing enhanced native vegetation approved by the county adjacent to the development or between the development and the shoreline. Bulkheads shall be buffered from the water's edge by enhanced plantings of native vegetation approved by the county. (Ord. 15606 § 26, 2006: Ord. 12823 § 16, 1997).

21A.38.240 Special district overlay - floodplain density.

A. The purpose of the floodplain density special district overlay is to provide a means to designate areas that cannot accommodate additional density due to severe flooding problems. This district overlay limits development in critical areas to reduce potential future flooding.

B. The following development standards shall be applied to all development proposals on RA-5 zoned parcels located within a floodplain density special district overlay:

1. Density is limited to one home per ten acres for any property that is located within a critical area; and

2. All development shall be clustered outside of the identified critical areas, unless the entire parcel is a mapped critical area. (Ord. 15606 § 27, 2006: Ord. 12823 § 19, 1997).

Chapter 21A.39
GENERAL PROVISIONS - URBAN PLANNED DEVELOPMENTS

Sections:

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21A.39.010 Urban Planned Development (UPD) permit - Purpose. The purpose of the urban planned development (UPD) permit process and standards set out in this chapter is to:

A. Establish the UPD permit as the mechanism for standardized and consolidated review to implement a UPD;

B. Establish conditions for the UPD to be complied with by all subsequent land use approvals implementing the UPD;

C. Coordinate infrastructure and project phasing to the adequacy of public services;

D. Implement open space protection specifically tailored to the UPD;

E. Establish a specific range and intensity of land uses for the UPD, tailored to fit the site; and

F. Provide diversity in housing types and affordability within UPDs.

G. Promote site design that it supports and encourage the use of transit. (Ord. 10870 § 582, 1993).

21A.39.020 UPD permit - application and review process.

A. King County shall accept an application for an UPD permit only in areas designated urban by the comprehensive plan and contained within the boundaries of UPD Special District Overlays designated by a community plan or comprehensive plan, provided that density transfer from adjacent rural lands is allowed as provided for in K.C.C. chapter 21A.36.

B. A UPD permit application, or modifications of an approved UPD permit that requires council review, shall be reviewed pursuant to the hearing examiner process outlined in K.C.C. chapter 21A.42, provided that:

1. The review of the UPD permit application shall not be completed until applicable sewer and/or water comprehensive utility plans or plan amendments are identified;

2. A UPD permit may be processed concurrently with any application for a subsequent development approval implementing the UPD permit.

C. A processing memorandum of understanding (MOU) shall be adopted containing any of the following elements:

1. Schedule for processing including timelines for EIS, drainage master plan, UPD permit hearings, plats or other permits or approvals;

2. Budget for permit processing and review;

3. Establishment of a core UPD review team with one representative from each county department having a principal UPD permit review role. The department responsible for coordinating review of the UPD shall enter into memorandums of understanding with other county departments specifying special tasks and timetables consistent with the schedule for performance by each department and/or independent consulting;

4. Retention of a third-party facilitator at the applicant's cost to assist the county's review;

5. Establishment of baseline monitoring requirements and design parameters that are to apply under existing law during the UPD application and review process;

6. Final scope for EIS, that shall be adjusted for adopted county substantive environmental or mitigation requirements that will apply to the UPD permit such as K.C.C. chapter 21A.24, the SWM Manual, road and school adequacy standards, impact fee or mitigation programs or other adopted standards.

D. The processing MOU shall be completed initially within ninety days after the request by a UPD permit applicant, unless the county and applicant agree to a different time. If the county and applicant have not reached agreement within ninety days, then either may request final resolution of the processing MOU by a committee consisting of the directors of the departments of transportation, development and environmental services, and natural resources and parks;

E. The county shall prepare a a UPD application form consistent with the information required under K.C.C. 21A.39.030, that shall take into account that detailed information that may not be available at the time of the application will be developed through the environmental impact statement and review process. (Ord. 15606 § 28, 2006: Ord. 14199 § 238, 2001: Ord. 11621 § 101, 1994: Ord. 10870 § 583, 1993).

21A.39.030 UPD permit - conditions of approval.

A. In approving a UPD permit, conditions of approval shall at a minimum establish:

1. A site plan for the entire UPD showing locations of critical areas and buffers, required open spaces, UPD perimeter buffers, location and range of densities for residential development and location and size of nonresidential development;

2. The expected buildout time period for the entire project and the various phases;

3. Project phasing and other project-specific conditions to mitigate impacts on the environment, on public facilities and services including transportation, utilities, drainage, police and fire protection, schools and parks;

4. Affordable housing requirements;

5. Road and storm water design standards that shall apply to the various phases of the project;

6. Bulk design and dimensional standards that shall be implemented throughout subsequent development within the UPD;

7. The size and range of uses authorized for any nonresidential development within the UPD;

8. The minimum and maximum number of residential units for the UPD; and

9. Any or both sewer and water comprehensive utility plans or amendments required to be completed before development can occur; and

10. Provisions for the applicant's surrender of an approved UPD permit before commencement of construction or cessation of UPD development based upon causes beyond the applicant's control or other circumstances, with the property to develop thereafter under the base zoning in effect prior to the UPD permit approval.

B. A UPD permit and development agreement may allow development standards different from those otherwise imposed under the King County Code, including, but not limited to, K.C.C. 21A.39.050, 21A.39.060, 21A.39.070, 21A.39.080, 21A.39.090, 21A.39.100, 21A.39.110 and 21A.39.120, in order to provide flexibility to achieve public benefits, respond to changing community needs, and encourage modifications that provide the functional equivalent or adequately achieve the purposes of county standards. Any approved development standards that differ from those in the King County Code shall not require any further zoning reclassification, variance from King County standards or other county approval apart from the UPD permit approval. The development standards as approved through the UPD permit and development agreement shall apply to and govern the development and implementation of each UPD site in lieu of any conflicting or different standards or requirements elsewhere in the King County Code.

C. Subsequently adopted standards that differ from those of the UPD permit shall apply to the UPD only where necessary to address imminent public health and safety hazards or where the UPD permit specifies a time period or phase after which certain identified standards can be modified. Determination of the appropriate standards for future phases that are not fully defined during the initial approval process may be postponed. Building permit applications shall be subject to the building codes in effect when the permit is applied for.

D. An approved UPD permit, including site plan elements or conditions of approval, may be amended or modified at the request of the applicant or the applicant's successor in interest designated by the applicant in writing. The director may administratively approve minor modifications to an approved UPD permit. Modifications that do not qualify as minor shall be deemed major modifications and shall be reviewed in the same manner as that in K.C.C. 21A.39.020 for new UPD permit applications. Any increase in the total number of dwelling units in a UPD above the maximum number in the approved UPD permit, or any decrease in the minimum density for residential areas of the UPD (exclusive of roads and critical areas), shall be deemed major modifications. The county through the development agreement for an approved UPD may specify additional criteria for determining whether proposed modifications are major or minor.

E. Unless otherwise provided for through the UPD permit approval, and subject to any appropriate credits for fees paid or facilities provided by the UPD, applicable impact fee payment requirements shall be those that are in effect when subsequent implementing approvals such as subdivision applications, binding site plans, building permits or other approvals are applied for. (Ord. 15606 § 29, 2006: Ord. 11700 § 43, 1995: Ord. 10870 § 584, 1993).

21A.39.040 UPD permit - Development agreement. The conditions of UPD permit approval shall be attached to a development agreement that is:

A. Signed by King County executive and all property owners within the UPD in a form acceptable to King County.

B. Binding on all property owners and their successors to develop a UPD only in accordance with the conditions of the UPD permit, but subject to surrender or cessation of the UPD permit and development as provided in 21A.39.030A.10.

C. Recorded with King County division of records prior to the effective date of the UPD permit or any development proposal which was submitted and reviewed concurrently with the UPD permit application. (Ord. 10870 § 585, 1993).

21A.39.050 UPD standards - Land uses.

A. Except as required by subsections B and C, a UPD may contain any non-residential use set out in the K.C.C. 21A.08 (Land Use Tables) when approved as part of the UPD permit. Any non-residential use shall be subject to any applicable UPD conditions contained in the development agreement that limits the scope or intensity of such use.

B. The primary land use shall be residential and shall be provided as follows:

1. The base density of the UPD shall be that of the zone set for the site were it to not develop with a UPD, applied to the entire site including portions proposed for nonresidential uses.

2. The minimum density of the UPD shall be not less than the minimum residential density of the underlying zoning calculated for the portion of the site to be used for residential purposes, pursuant to the methodology outlined in K.C.C. 21A.12, and

3. The maximum density of the UPD shall be determined by the council in the UPD permit, subject to any maximum density set out in the community plan or comprehensive plan which designated the UPD special district overlay.

C. UPDs shall at a minimum:

1. Provide retail/commercial areas at a rate of one acre per 2500 projected UPD residents, or

2. Demonstrate that existing or potential commercial development within one quarter mile of UPD boundaries will meet the convenience shopping needs of UPD residents. (Ord. 11621 § 102, 1994: Ord. 10870 § 586, 1993).

21A.39.060 UPD standards - Affordable housing.

A. Exclusive of dwelling units from the density bonus provisions, at least 30 percent of the residential units in each phase shall be affordable housing units defined and allocated as follows:

1. Ten percent of the affordable housing units shall be affordable to households at an income level:

a. below 80 percent of the median household income for ownership units, and/or

b. below 50 percent of the median household income for rental units.

c. housing affordable for households at this level of median income will be required in any phase only if publicly funded or private non-profit programs for such housing are available, provided that the developer sets aside sufficient land for a period of up to five years. That period shall begin with approval of the final plat for each subdivision containing any land set aside for low income housing. If during that period, programs become available, the developer shall cooperate with the public agency or private non-profit for the development of such housing.

d. if housing funds do not become available by the end of the five year period the land shall be released for other development consistent with the UPD. The overall requirement for units available to below 80 or 50 percent of median income households, whichever is applicable, shall be reduced by the number for which the five year period has elapsed and the overall requirement for units available to households between 80 to less than 100 percent (ownership units) or 50 to less than 80 percent (rental units) of median income shall be increased by the same number.

2. Ten percent of the affordable housing units shall be affordable to households at an income level:

a. between 80 and less than 100 percent of the median household income for ownership units, and/or

b. between 50 and less than 80 percent of the median household income for rental units;

3. Ten percent of the affordable housing units shall be affordable to households at an income level:

a. between 100 and 120 percent of the median household income for ownership units; and/or

b. between 80 and 100 percent of the median household income for rental units; and

4. The formula for determining median income for King County and affordable monthly housing payments based on a percentage of this income shall be determined at the time of the UPD permit approval.

B. The affordable housing units that are owner-occupied shall be resale restricted to same income group (based on typical underwriting ratios and other lending standards) for 15 years from date of first sale. Renter occupied units shall be restricted for thirty years to ensure continuing affordability for households of the applicable income level. (Ord. 10870 § 587, 1993).

21A.39.070 UPD standards - On-site recreation. The UPD shall provide the amount of on-site recreation required pursuant to K.C.C. 21A.14. (Ord. 10870 § 588, 1993).

21A.39.080 UPD standards - Transportation, road and school adequacy.

A. Transportation, and school adequacy impacts relative to the standards set forth in K.C.C. 21A.28 shall be evaluated based on complete development of the total site area in the UPD permit application.

B. Required facility construction and dedication and other mitigation measures may be phased in conjunction with subsequent land use approvals consistent with their proportion of the total project impacts. (Ord. 10870 § 589, 1993).

21A.39.090 UPD standards - Water and sewer service.

A. All UPDs shall be served with public water and sewer systems that:

1. Comply with applicable comprehensive utility plans, and

2. Are in place at the time said service is needed for the UPD or any completed phase thereof.

B. The UPD shall provide all on-site and off-site improvements and additions to water and sewer facilities required to support the UPD, at the expense of the UPD, which may include developer extension agreements (latecomer provision), LIDs or other capital facility financing. (Ord. 10870 § 590, 1993).

21A.39.100 UPD standards - Road design. The road design standards applied to subsequent land use actions which implement the UPD shall be such standards in effect at the time of UPD permit approval, except when new standards are specifically determined by the King County council to be necessary for public safety. (Ord. 10870 § 591, 1993).

21A.39.110 UPD standards - Storm water management design. The SWM design standards in effect at the time of UPD permit approval shall be applied to subsequent land use actions which implement the UPD except when new standards are specifically determined by the King County council to be necessary for public safety. (Ord. 10870 § 592, 1993).

21A.39.120 UPD standards - Applicability of other zoning code provisions.

A. Except as may be specified in the UPD permit conditions, all developments and uses on the UPD site proposed subsequent to the UPD permit approval shall comply with all the other applicable provisions of this title.

B. Except as may be otherwise specified in the UPD permit conditions the development standards for the UPD shall be as follows:

1. Individual residential subareas shall use the standards of the zone that is closest in density to the proposed subarea development; and

2. Commercial or industrial uses shall be subject to the standards of CB zone. (Ord. 10870 § 593, 1993).

21A.39.130 Latecomer agreements and fair share. If the UPD provides more than its fair share contribution, to infrastructure improvements or public services including but not limited to roads, sewers, water, fire, police, schools or park and recreation facilities, then the UPD shall receive latecomer fees, offsets, credits, reductions, or other adjustments to reflect the UPD's fair share obligations. (Ord. 10870 § 594, 1993).

21A.39.200 Fully contained community (FCC) - Permit.

A. King County shall accept an application for a FCC permit only in areas designated as a FCC by the Comprehensive Plan and contained within the boundaries of a FCC special district overlay designated by the area zoning implementing the Comprehensive Plan.

B. In order to be approved, a proposed FCC permit shall comply with the provisions relating to urban planned development permits in King County Code 21A.39.020B and C and 21A.39.030 through 21A.39.130, except that a proposed FCC shall comply with the following additional standards:

1. New infrastructure (including transportation and utilities infrastructure) is provided for and impact fees are established and imposed on the FCC consistent with the requirements of RCW 82.02.050;

2. Transit-oriented site planning and traffic demand management programs are implemented in the FCC. Pedestrian, bicycle, and high occupancy vehicle facilities are given high priority in design and management of the FCC;

3. Buffers are provided between the FCC and adjacent urban and low-density residential development. Buffers located on the perimeter boundaries of the FCC delineated boundaries, consisting of either landscaped areas with native vegetation or natural areas, shall be provided and maintained to reduce impacts on adjacent lands;

4. A mix of uses is provided to offer jobs, housing, and services to the residents of the new FCC. No particular percentage formula for the mix of uses is required. Instead, the mix of uses for an FCC shall be evaluated on a case-by-case basis, in light of the geography, market demand area, transportation patterns, and other relevant factors affecting the proposed FCC. Service uses in the FCC may also serve residents outside the FCC, where appropriate;

5. Affordable housing is provided within the new FCC for a broad range of income levels, including housing affordable by households with income levels below and near the median income for King County;

6. Environmental protection has been addressed and provided for in the new FCC, at levels at least equivalent to those imposed by adopted King County environmental regulations;

7. Development regulations are established to ensure urban growth will not occur in adjacent nonurban areas. Such regulations shall include but are not limited to rural zoning of adjacent rural areas, urban planned development permit conditions requiring sizing of FCC water and sewer systems so as to ensure urban growth will not occur in adjacent nonurban areas; and/or urban planned development permit conditions prohibiting connection by property owners in the adjacent rural area (excepting public school sites) to new FCC sewer and water mains or lines;

8. Provision is made to mitigate impacts of the FCC on designated agricultural lands, forest lands, and mineral resource lands; and

9. The plan for the new FCC is consistent with the development regulations established for the protection of critical areas of King County pursuant to RCW 36.70A.170.

C. If an applicant utilizes the procedural provisions of this section of King County Code 21A.39, any previously submitted urban planned development permit applications are deemed the equivalent of and accepted as complete applications for a FCC permit under this chapter.

D. If the Comprehensive Plan designates more than one FCC site within a FCC area, the FCC applications may be submitted and reviewed independently unless a combined review is requested by the owners of the proposed FCC sites. If FCC permits on adjoining properties within the designated FCC area are considered in combined review, then the applicants can request that the criteria specified in K.C.C. 21A.39.200 be applied to the combined area and uses within the two adjoining fee permit sites. In applying the FCC criteria of K.C.C. 21A.39.200 B to an FCC permit, the county shall consider the uses and other characteristics of any existing FCC permit on an adjoining site within the FCC area.

E. Approved urban planned developments. Any approved urban planned development can proceed with development consistent with the terms of the recorded development agreement or, at the owner's election, may request king County to review and issue an FCC permit. The additional review process shall follow the processing requirements for a FCC but would incorporate the prior urban planned development permit file and prior proceedings and would be limited to determining whether there is a basis for the additional findings and conclusions necessary for a FCC permit beyond those required for an urban planned development. (Ord. 12171 § 8, 1996).

Chapter 21A.40
APPLICATION REQUIREMENTS/NOTICE METHODS

Sections:

21A.40.070 Applications - Limitations on refiling of applications. Upon denial by the council of a zone reclassification or a special use permit, no new application for substantially the same proposal shall be accepted within one year from the date of denial. (Ord. 10870 § 602, 1993).

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Chapter 21A.41
COMMERCIAL SITE DEVELOPMENT PERMITS

Sections:

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21A.41.010 Purpose. The purpose of this chapter is to establish an optional comprehensive site review process of proposed commercial development resulting in a permit which can combine any or all of the following:

A. Site development requirements specified prior to building and/or grading permit applications.

B. Site review and application of rules and regulations generally applied to the whole site without regard to existing or proposed internal lot lines.

C. Site development coordination and project phasing occurring over a period of years.

D. Evaluation of commercially and industrially zoned property for the creation or alteration of lots when reviewed concurrently with a binding site plan application. (Ord. 11621 § 120, 1994).

21A.41.020 Applicability.

A. An application for commercial site development permit may be submitted for commercial development projects on sites consisting of one (1) or more contiguous lots legally created and zoned to permit the proposed uses.

B. A commercial site development permit is separate from and does not replace other required permits such as conditional use permits or shoreline substantial development permits. A commercial site development permit may be combined and reviewed concurrently with other permits. (Ord. 11621 § 121, 1994).

21A.41.050 Public comments. All public comments shall be in writing and signed, shall reference the proposed commercial site development permit application, and shall include the full name, address and telephone number of the person commenting. All comments shall be received within the designated comment period. The designated comment period shall commence on the day following publication or posting of the application notice and shall terminate at 4:30 p.m. on the fifteenth (15th) day thereafter. If the department determines that application notice shall be published as well as posted, the department shall make every attempt to have the comment periods run concurrently. If, however, more than one method of notification is used, the termination date shall be calculated from the last notification date. If the fifteenth (15th) day is a non-work day for the county, the designated comment period shall cease at 4:30 p.m. on the next county work day immediately following the fifteenth (15th) day. (Ord. 11621 § 124, 1994).

21A.41.060 Application of development standards. An application for commercial site development permit shall be reviewed pursuant to chapter 43.21C RCW, SEPA as implemented by WAC 197-11; K.C.C. 9.04, Surface Water Management; K.C.C. 14.42, Road Standards; K.C.C. 16.82, Grading; K.C.C. Title 17, Fire Code; K.C.C. 20.44, County Environmental Procedures; K.C.C. Title 21A, Zoning; K.C.C. Title 25, Shoreline Management; administrative rules adopted pursuant to K.C.C. 2.98 to implement any such code or ordinance provision; King County board of health rules and regulations; county approved utility comprehensive plans; conformity with applicable P-suffix conditions.

Lot-based standards, such as internal circulation, landscaping signage and setback requirements, are typically applied to each individual lot within the site. However, the director may approve an application for commercial site development where such standards have been applied to the site as if it consisted of one parcel. Lot-based regulations shall not be waived altogether.

The director may modify lot-based or lot line requirements contained within the building, fire and other similar uniform codes adopted by the county, provided the site is being reviewed concurrently with a binding site plan application. (Ord. 13022 § 31, 1998: Ord. 11621 § 125, 1994).

21A.41.070 Approval.

A. The director may approve, deny, or approve with conditions an application for a commercial site development. The decision shall be based on the following factors:

1. Conformity with adopted county and state rules and regulations in effect on the date the complete application was filed, including but not limited to those listed in section 21A.41.060.

2. Consideration of the recommendations or comments of interested parties and those agencies having pertinent expertise or jurisdiction, consistent with the requirements of this title.

B. Subsequent permits for the subject site shall be issued only in compliance with the approved commercial site development plan. Additional site development conditions and site review will not be required for subsequent permits provided the approved plan is not altered.

C. Approval of the proposed commercial site development shall not provide the applicant with a vested right to build without regard to subsequent changes in the building and fire codes listed in K.C.C. 16.04 and 17.04 regulating construction.

D. The director shall mail a copy of the decision to the applicant and any other person who has presented written comment to the department. (Ord. 11621 § 126, 1994).

21A.41.080 Financial guarantees. Performance guarantees consistent with the provisions of Title 27A may be required to assure that development occurs according to the approved plan. (Ord. 12020 § 55, 1995: Ord. 11621 § 127, 1994).

21A.41.100 Limitation of permit approval.

A. A commercial site development permit approved without a phasing plan shall be null and void if the applicant fails to file a complete building permit application(s) for all buildings within three years of the approval date, or by a date specified by the director; and fails to have all valid building permits issued within four years of the commercial site development permit approval date; or

B. A commercial site development permit approved with a phasing plan shall be null and void if the applicant fails to meet the conditions and time schedules specified in the approved phasing plan. (Ord. 11621 § 129, 1994).

21A.41.110 Modification to an approved permit. A subsequent building permit application may contain minor modifications to an approved commercial site development plan provided a modification: does not increase the building floor area by more than 10%; does not increase the number of dwelling units; does not increase the total impervious surface area, provided that, relocatable facilities for schools shall be exempt from this restriction; does not result in an insufficient amount of parking and/or loading; does not locate buildings outside an approved building envelope, provided that, relocatable facilities for schools shall be exempt from this restriction; does not change the number of ingress and egress points to the site; does not significantly increase the traffic impacts of peak hour trips to and from the site; does not significantly increase the quantity of imported or exported materials or increase the area of site disturbance. Modifications which exceed the conditions of approval as stated in this section and require a new review as determined by the director shall only be accomplished by applying for a new commercial site development permit for the entire site. The new application shall be reviewed according to the laws and rules in effect at the time of application. (Ord. 11621 § 130, 1994).

21A.41.120 Administrative rules. The director may promulgate administrative rules and regulations pursuant to K.C.C. 2.98, to implement the provisions and requirements of this chapter. (Ord. 11621 § 131, 1994).

Chapter 21A.42
REVIEW PROCEDURES/NOTICE REQUIREMENTS

Sections:

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21A.42.030 Code compliance review — decisions and appeals.

A. The department shall approve, approve with conditions, or deny development proposals based on compliance with this title and any other development condition affecting the proposal.

B. K.C.C. chapter 20.20 applies to appeals of decisions on development proposals. (Ord. 15051 § 219, 2004: Ord. 10870 § 611, 1993).

21A.42.040 Director review — actions subject to review. The following actions shall be subject to the director review procedures in this chapter:

A. Applications for variances, exceptions under K.C.C. 21A.24.070, and conditional uses; and

B. Periodic review of mineral extraction operations. (Ord. 15051 § 220, 2004: Ord. 12196 § 55, 1996: Ord. 11621 § 105, 1994: Ord. 10870 § 612, 1993).

21A.42.080 Director review — decision regarding development proposal — rules.

A. Decisions regarding the approval or denial of development proposals, excluding periodic review of mineral extraction operations, subject to director review shall be based upon compliance with the required showings of K.C.C. chapter 21A.44. Periodic reviews of mineral extraction operations shall be based upon the criteria outlined in K.C.C. 21A.22.050.B.

B. The written decision contained in the record shall show:

1. Facts, findings and conclusions supporting the decision and demonstrating compliance with the applicable decision criteria; and

2. Any conditions and limitations imposed, if the request is granted.

C. The director shall mail a copy of the written decision to the applicant and to all parties of record.

D. The director shall adopt rules for the transaction of business and shall keep a public record of his actions, finding, waivers and determinations. (Ord. 15051 § 221, 2004: Ord. 12196 § 56, 1996: Ord. 10870 § 616, 1993).

21A.42.090 Director review - Decision final unless appealed.

A. The decision of the director shall be final unless the applicant or an aggrieved party files an appeal to the hearing examiner pursuant to K.C.C. 20.24.

B. The examiner shall review and make decisions based upon information contained in the written appeal and the record.

C. The examiner's decision may affirm, modify, or reverse the decision of the director.

D. As provided by K.C.C. 20.24.210A and C:

1. The examiner shall render a decision within ten days of the closing of hearing; and

2. The decision shall be final unless appealed under the provisions of K.C.C. 20.24.240B.

E. Establishment of any use or activity authorized pursuant to a conditional use permit or variance shall occur within four years of the effective date of the decision for such permit or variance, provided that for schools this period shall be five years. This period may be extended for one additional year by the director if the applicant has submitted the applications necessary to establish the use or activity and has provided written justification for the extension.

F. For the purpose of this section, "establishment" shall occur upon the issuance of all local permit(s) for on-site improvements needed to begin the authorized use or activity, provided that the conditions or improvements required by such permits are completed within the timeframes of said permits.

G. Once a use, activity or improvement allowed by a conditional use permit or variance has been established, it may continue as long as all conditions of permit issuance are met. (Ord. 12196 § 57, 1996: Ord. 11940 § 1, 1995: Ord. 10870 § 617, 1993).

21A.42.100 Examiner review — zone reclassifications, shoreline environment redesignation, urban plan developments, special use permits, amendment or deletion of P-suffix conditions, plat vacations and short plat vacations. Applications for zone reclassifications, shoreline environment redesignation, special use permits, urban plan developments, amendment or deletion of P-suffix conditions, plat vacations and short plat vacations shall be reviewed by the department subject to the criteria in K.C.C. chapter 21A.44 and to the procedures and criteria in K.C.C. chapter 20.24 for action subject to approval by the council and notice shall be provided in accordance with K.C.C. chapter 20.20. (Ord. 15051 § 222, 2004: Ord. 11621 § 106, 1994: Ord. 10870 § 618, 1993).

21A.42.110 Combined review. Proposed actions may be combined for review purposes with any other action subject to the same review process, provided:

A. Notice requirements for combined review shall not be less than the greatest individual action requirement; and

B. No permit shall be approved without prior review and approval of any required variance. (Ord. 10870 § 619, 1993).

21A.42.130 Records. The department shall maintain public records for all permit approvals and denials containing the following information:

A. Application documents;

B. Tape recorded verbatim records of required public hearing;

C. Written recommendations and decisions for proposed actions;

D. Ordinances showing final council actions;

E. Evidence of notice;

F. Written comments received; and

G. Material submitted as exhibits. (Ord. 10870 § 621, 1993).

21A.42.140 Review process for high schools.

A. The School District shall hold a public hearing on the request for a building permit on the proposed high school and may merge the public hearing for environmental review with this hearing. The hearing shall address the proposal's compliance with the applicable development standards and whether the impacts of traffic on the neighborhood have been addressed pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, and/or through the payment of road impact fees. The hearing may be conducted by the Board of Directors, or where authorized by board policy, by a hearing examiner appointed by the School Board. The District shall provide notice of the hearing as follows:

1. By posting the property;

2. By publishing in a newspaper of general circulation in the general area where the proposed high school is located;

3. By sending notices by first class mail to owners of property in an area within five hundred feet of the proposed high school, but the area shall be expanded as necessary to send mailed notices to at least twenty different property owners; and

4. By sending notices to other residents of the District that have requested notice.

B. At a regularly scheduled or special Board meeting, the Board of Directors shall adopt findings of compliance with applicable King County development standards, including the decision criteria outlined in K.C.C. chapter 21A.44, or adopt proposed actions necessary to reach compliance. If a hearing examiner has been appointed, the Board of Directors shall review and adopt or reject the hearing examiner's proposed findings and/or proposed actions. The board may include in the record any information supporting its findings or any information from prior public meetings held on the same general subject at the discretion of the Board.

C. Copies of the findings and/or the proposed actions shall be mailed to all parties of record and to the county.

D. Any aggrieved party of record may request the Board of Directors to reconsider the findings within twenty calendar days of its adoption. An aggrieved party requesting reconsideration shall submit written evidence challenging the findings or otherwise specifically identify reasons why the District has failed to reasonably comply with the applicable King County development standards or the decision criteria outlined in K.C.C. chapter 21A.44. Within thirty calendar days after a request for reconsideration has been filed with the District, the Board of Directors may reconsider and revise the findings and/or proposed actions, or may decline to reconsider. Failure to act, or to initiate the process for reconsideration by notifying the aggrieved party of record of intent to reconsider, within the thirty day period shall be deemed to constitute a decision not to reconsider.

E. The Board's final findings shall be attached to the District's building permit application and shall be considered as prima facie evidence of compliance with the applicable King County development standards. (Ord. 14045 § 57, 2001: Ord. 10870 § 634 (part), 1993).

21A.42.150 Modifications and expansions of uses or developments authorized by existing land use permits - Permits defined. For the purposes of this chapter, a land use permit shall mean a conditional use permit, special use permit, unclassified use permit, or planned unit development. (Ord. 13130 § 7, 1998).

21A.42.160 Modifications or expansions of uses or developments authorized by existing land use permits - When use now permitted outright. Proposed modifications or expansions to a use or development authorized by an existing land use permit shall not require an amendment to the existing land use permit if the use is now permitted outright in the zone district in which it is located and shall not require findings pursuant to K.C.C. 21A.42.170. (Ord. 13130 § 8, 1998).

21A.42.170 Modifications or expansions of uses authorized by existing land use permits - Required findings. Modifications or expansions approved by the department shall be based on written findings that the proposed modifications or expansions provide the same level of protection for and compatibility with adjacent land uses as the original land use permit.(Ord. 13130 § 9, 1998).

21A.42.180 Modifications and expansions - use or development authorized by an existing planned unit development approval. Modifications and expansions of uses or developments authorized by an existing planned unit development approval shall be subject to the following provisions.

A. Any approved modification or expansion shall be recorded.

B. Modifications to building location and/or dimensions shall be reviewed pursuant to the code compliance process of K.C.C. 21A.42.010 only when:

1. No buildings are located closer to the nearest property line(s), and
2. No increase in square footage of buildings is proposed.

C. Modifications beyond those permitted in subsection B and all expansions, shall be subject to the approval of a conditional use permit. (Ord. 13130 § 10, 1998).

21A.42.190 Modifications and expansions - uses or development authorized by existing conditional use, special use or unclassified use permits.

A. The department may review and approve, pursuant to the code compliance process of K.C.C. 21A.42.030, an expansion of a use or development authorized by an existing conditional use, special use or unclassified use permit as follows:

1. The expansion shall conform to all provisions of this title and the original land use permit, except that the project-wide amount of each of the following may be increased up to ten percent:

a. building square footage,

b. impervious surface,

c. parking, or

d. building height;

2. No subsequent expansions shall be approved under this subsection if the cumulative amount of such expansion exceeds the percentage prescribed in subsection A.1. of this section;

3. A conditional use permit shall be required for expansions within a use or development authorized by an existing conditional use permit if the expansions are not consistent with the provisions of this subsection; and

4. A special use permit shall be required for expansions within a use or development authorized by an existing special use or unclassified use permit, if the expansions to either permit are not consistent with the provisions of this subsection.

B. The department may review and approve, in accordance with the code compliance process of K.C.C. 21A.42.030, a modification of a use or a development authorized by an existing conditional use, special use or unclassified use permit that does not make a substantial change, as determined by the department, to the conditional use, special use or unclassified use. For the purpose of this subsection, a "substantial change" includes, but is not limited to, a change to the conditions of approval or the creation of a new use.

C. This section shall not apply to modifications or expansions of telecommunication facilities, the provision for which are in K.C.C. 21A.26.140 or to modifications or expansions of nonconformances, the provisions for which are in K.C.C. 21A.32.065. (Ord. 15606 § 30, 2006: Ord. 13130 § 11, 1998).

Chapter 21A.43
IMPACT FEES

Sections:

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21A.43.005 Authority. The provisions of this chapter for the assessment and collection of impact fees are adopted pursuant to Chapter 82.02 RCW. (Ord. 11621 § 109, 1994).

21A.43.010 Purpose. The purpose of this chapter is to implement the capital facilities element of the Comprehensive Plan and the Growth Management Act by:

A. Ensuring that adequate public school facilities and improvements are available to serve new development;

B. Establishing standards whereby new development pays a proportionate share of the cost for public school facilities needed to serve such new development;

C. Ensuring that school impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact; and

D. Providing needed funding for growth-related school improvements to meet the future growth needs of King County. (Ord. 11621 § 110, 1994).

21A.43.020 Impact fee program elements.

A. Impact fees will be assessed on every new dwelling unit in the district for which a fee schedule has been established.

B. Impact fees will be imposed on a district-by-district basis, on behalf of any school district which provides to the county a capital facilities plan, the district's standards of service for the various grade spans, estimates of the cost of providing needed facilities and other capital improvements, and the data from the district called for by the formula in K.C.C. 21A.43.030. The actual fee schedule for the district will be adopted by ordinance based on this information and the fee calculation set out for K.C.C. 21A.43.030. Any impact fee imposed shall be reasonably related to the impact caused by the development and shall not exceed a proportionate share of the cost of system improvements that are reasonably related to the development. The impact fee formula shall account in the fee calculation for future revenues the district will receive from the development. The ordinance adopting the fee schedule shall specify under what circumstances the fee may be adjusted in the interests of fairness.

C. The impact fee shall be based on a capital facilities plan developed by the district and approved by the school board, and adopted by reference by the county as part of the capital facilities element of the comprehensive plan for the purpose of establishing the fee program. (Ord. 11621 § 111, 1994).

21A.43.030 Fee calculations.

A. The fee for each district shall be calculated based on the formula set out in Attachment A to Ordinance 11621*.

B. Separate fees shall be calculated for single family and multi-family residential units and separate student generation rates must be determined by the district for each type of residential unit. For purposes of this chapter single family units shall mean single detached dwelling units, and multi-family units shall mean townhouses and apartments.

C. The fee shall be calculated on a district-by-district basis using the appropriate factors and data to be supplied by the district, as indicated in Attachment A to Ordinance 11621*. The fee calculations shall be made on a district-wide basis to assure maximum utilization of all school facilities in the district used currently or within the last two years for instructional purposes.

D. The formula in Attachment A to Ordinance 11621 also provides a credit for the anticipated tax contributions that would be made by the development based on historical levels of voter support for bond issues in the school district.

E. The formula in Attachment A to Ordinance 11621 also provides for a credit for school facilities or sites actually provided by a developer which the school district finds to be acceptable. (Ord. 13338 § 15, 1998: Ord. 12148 § 1, 1996: Ord. 11621 § 112, 1994).

***Available at the office of the clerk of the council.**

21A.43.040 Fee collection. Fees shall be collected by the department of development and environmental services and maintained in a separate account for each school district, pursuant to K.C.C. 21A.43.070. Fees shall be paid to the district pursuant to administrative rules of an interlocal agreement between the county and the district. (Ord. 11621 § 113, 1994).

21A.43.050 Assessment of impact fees.

A. In school districts where impact fees have been adopted by county ordinance and except as provided in K.C.C. 21A.43.080, the county shall collect impact fees, based on the schedules set forth in each ordinance establishing the fee to be collected for the district, from any applicant seeking development approval from the county where such development activity requires final plat, PUD or UPD approval or the issuance of a residential building permit or a mobile home permit and the fee for the lot or unit has not been previously paid. No approval shall be granted and no permit shall be issued until the required school impact fees set forth in the district's impact fee schedule contained in K.C.C. Title 27 have been paid.

B. For a plat, PUD or UPD applied for on or after the effective date of the ordinance adopting the fee for the district in question receiving final approval, fifty percent of the impact fees due on the plat, PUD or UPD shall be assessed and collected from the applicant at the time of final approval, using the impact fee schedules in effect when the plat, PUD or UPD was approved. The balance of the assessed fee shall be allocated to the dwelling units in the project, and shall be collected when the building permits are issued. Residential developments proposed for short plats shall be governed by subsection D of this section.

C. If on the effective date of an ordinance adopting an impact fee for a district, a plat, PUD or UPD has already received preliminary approval, such plat, PUD or UPD shall not be required to pay fifty percent (50%) of the impact fees at the time of final approval, but the impact fees shall be assessed and collected from the lot owner at the time the building permits are issued, using the impact fee schedules in effect at the time of building permit application. If on the effective date of a district's ordinance, an applicant has applied for preliminary plat, PUD or UPD approval, but has not yet received such approval, the applicant shall follow the procedures set forth in subsection B of this section.

D. For existing lots or lots not covered by subsection B of this section, application for single family and multifamily residential building permits, mobile home permits, and site plan approval for mobile home parks, the total amount of the impact fees shall be assessed and collected from the applicant when the building permit is issued, using the impact fee schedules in effect at the time of permit application.

E. Notwithstanding the provisions of this section, any application for preliminary plat, PUD or UPD approval submitted before January 22, 1991, shall not be required to pay school impact fees at the time of final plat, PUD or UPD approval. However, where the county has adopted a fee ordinance for the district, the full impact fee in effect when the building permits were applied for shall be paid by such developments at the time the building permits are issued if the applications for the building permits are submitted after January 22, 1991.

F. Any application for preliminary plat, PUD or UPD approval or multifamily zoning which has been approved subject to conditions requiring the payment of impact fees established pursuant to this chapter, shall be required to pay the fee in accordance with the condition of approval. (Ord. 11621 § 114, 1994).

21A.43.060 Effective Date. As of September 10, 1993, no fee shall be assessed or collected on any pending building permit which had been applied for prior to the effective date of the impact fee. (Ord. 11621 § 115, 1994).

21A.43.070 Adjustments, exceptions, and appeals.

A. The following are excluded from the application of the impact fees:

1. Any form of housing exclusively for the senior citizen, including nursing homes and retirement centers, so long as these uses are maintained;

2. Reconstruction, remodeling, or replacement of existing dwelling units which does not result in additional new dwelling units. In the case of replacement of a dwelling, a complete application for a building permit must be submitted within three years after it has been removed or destroyed;

3. Shelters for temporary placement, relocation facilities, transitional housing facilities and Community Residential Facilities as defined in K.C.C. 21A.06.220;

4. Any development activity that is exempt from the payment of an impact fee pursuant to RCW 82.02.100, due to mitigation of the same system improvement under the State Environmental Policy Act;

5. Any development activity for which school impacts have been mitigated pursuant to a condition of plat, PUD or UPD approval to pay fees, dedicate land or construct or improve school facilities, unless the condition of the plat, PUD or UPD approval provides otherwise; provided that the condition of the plat, PUD or UPD approval predates the effective date of a school district's fee implementing ordinance;

6. Any development activity for which school impacts have been mitigated pursuant to a voluntary agreement entered into with a school district to pay fees, dedicate land or construct or improve school facilities, unless the terms of the voluntary agreement provide otherwise; provided that the agreement predates the effective date of a school district's fee implementing ordinance;

7. Housing units which fully qualify as housing for persons age 55 and over meeting the requirements of the Federal Housing Amendments Act of 1988, 42 U.S.C. 3607(b)(2)(c) and (b)(3), as subsequently amended, and which have recorded covenants or other legal arrangements precluding school-aged children as residents in those units;

8. Mobile homes permitted as temporary dwellings pursuant to K.C.C. 21A.32.170; and

9. Accessory dwelling units as defined in K.C.C. 21A.06.350 and K.C.C. 21A.08.030B.7.a.

B. Arrangement may be made for later payment with the approval of the school district only if the district determines that it will be unable to use or will not need the payment until a later time, provided that sufficient security, as defined by the district, is provided to assure payment. Security shall be made to and held by the school district, which will be responsible for tracking and documenting the security interest.

C. The fee amount established in the schedule shall be reduced by the amount of any payment previously made for the lot or development activity in question, either as a condition of approval or pursuant to a voluntary agreement with a school district entered into after the effective date of a school district's fee implementing ordinance.

D. After the effective date of a school district's fee implementing ordinance, whenever a development is granted approval subject to a condition that the developer actually provide school sites, school facilities, or improvements to school facilities acceptable to the district, or whenever the developer has agreed, pursuant to the terms of a voluntary agreement with the school district, to provide land, provide school facilities, or make improvements to existing facilities, the developer shall be entitled to a credit for the value of the land or actual cost of construction against the fee that would be chargeable under the formula provided by this chapter. The land value or cost of construction shall be estimated at the time of approval, but must be documented. If construction costs are estimated, the documentation shall be confirmed after the construction is completed to assure that an accurate credit amount is provided. If the land value or construction costs are less than the calculated fee amount, the difference remaining shall be chargeable as a school impact fee.

E. Impact fees may be adjusted by the county, at the county's discretion, if one of the following circumstances exist, provided that the discount set forth in the fee formula fails to adjust for the error in the calculation or fails to ameliorate for the unfairness of the fee:

1. The developer demonstrates that an impact fee assessment was incorrectly calculated; or

2. Unusual circumstances identified by the developer demonstrate that if the standard impact fee amount was applied to the development, it would be unfair or unjust.

F. A developer may provide studies and data to demonstrate that any particular factor used by the district may not be appropriately applied to the development proposal, but the district's data shall be presumed valid unless clearly demonstrated to be otherwise by the proponent.

G. Any appeal of the decision of the director or the hearing examiner with regard to imposition of an impact for or fee amounts shall follow the appeal process for the underlying permit and not be subject to a separate appeal process. Where no other administrative appeal process is available, an appeal may be taken to the hearing examiner using the appeal procedures for variances. Any errors in the formula identified as a result of an appeal should be referred to the council for possible modification.

H. Impact fees may be paid under protest in order to obtain a building permit or other approval of development activity, when an appeal is filed. (Ord. 12148 § 2, 1996: Ord. 11621 § 116, 1994).

21A.43.080 Exemption or reduction for low or moderate income housing.

A. Low or moderate income housing projects being developed by public housing agencies or private non-profit housing developers shall be exempt from the payment of school impact fees. The amount of the school impact fees not collected from low or moderate income household development shall be paid from public funds other than impact fee accounts. The impact fees for these units shall be considered paid for by the district through its other funding sources, without the district actually transferring funds from its other funding sources into the impact fee account. The planning and community development division shall review proposed developments of low or moderate income housing by such public or non-profit developers pursuant to criteria and procedures adopted by administrative rule, and shall advise the department of development and environmental services as to whether the project qualifies for the exemption.

B. Private developers who dedicate residential units for occupancy by low or moderate income households may apply to the division for reductions in school impact fees pursuant to the criteria established for public housing agencies and private non-profit housing developers pursuant to subsection A, and subject to the provisions of subsection A. The division shall review proposed developments of low or moderate income housing by such private developers pursuant to criteria and procedures adopted by administrative rule, and shall advise the department of development and environmental services as to whether the project qualifies for the exemption. If the division recommends the exemption, the department of development and environmental services shall reduce the calculated school impact fee for the development by an amount that is proportionate to the number of units in the development that satisfy the adopted criteria.

C. Individual low or moderate income home purchasers (as defined pursuant to the King County Comprehensive Housing Affordability Strategy (CHAS) who are purchasing homes at prices within their eligibility limits based on standard lending criteria and meet other means tests established by rule by the division are exempted from payment of the impact fee, provided that at such time as the property in question is transferred to another owner who does not qualify for the exemption, at which time the fee shall be due and payable.

D. The division is hereby instructed and authorized to adopt, pursuant to K.C.C. Chapter 2.98, administrative rules to implement this section. Such rules shall provide for the administration of this program and shall:

1. Encourage the construction of housing for low or moderate income households by public housing agencies or private non-profit housing developers participating in publicly sponsored or subsidized housing programs;

2. Encourage the construction in private developments of housing units for low or moderate income households that are in addition to units required by another housing program or development condition;

3. Ensure that housing that qualifies as low or moderate cost meets appropriate standards regarding household income, rent levels or sale prices, location, number of units and development size; and

4. Ensure that developers who obtain an exemption from or reduction of school impact fees will in fact build the proposed low or moderate cost housing and make it available to low or moderate income households for a minimum of fifteen (15) years.

5. Ensure that individual low or moderate income purchasers meet appropriate eligibility standards based on income and other financial means tests.

E. As a condition of receiving an exemption under paragraph B or C, the owner must execute and record a county-drafted lien, covenant, and/or other contractual provision against the property for a period of ten (10) years for individual owners, and fifteen (15) years for private developers, guaranteeing that the proposed development will continue to be used for low or moderate income housing. In the event that the pattern of development or the use of the development is no longer for low or moderate income housing, then the owner shall pay the impact fee amount from which the owner or any prior owner was exempt. The lien, covenant, or other contractual provision shall run with the land and apply to subsequent owners. (Ord. 11621 § 117, 1994).

21A.43.090 Impact fee accounts and refunds.

A. Impact fee receipts shall be earmarked specifically and retained in a special interest-bearing account established by the county solely for the district's school impact fees. All interest shall be retained in the account and expended for the purpose or purposes identified in subsection B. Annually, the county, based in part on the report submitted by the district pursuant to Section 21A.28.152 shall prepare a report on each impact fee account showing the source and amount of all moneys collected, earned or received, and capital or system improvements that were financed in whole or in part by impact fees.

B. Impact fees for the district's system improvements shall be expended by the district for capital improvements including but not limited to school planning, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, relocatable facilities, capital equipment pertaining to educational facilities, and any other expenses which could be capitalized, and which are consistent with the school district's capital facilities plan.

C. In the event that bonds or similar debt instruments are issued for the advanced provision of capital facilities for which impact fees may be expended and where consistent with the provisions of the bond covenants, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section.

D. Impact fees shall be expended or encumbered (i.e. committed as part of the funding for a facility for which the publicly funded share has been assured, or building permits applied for, or construction contracts let) by the district for a permissible use within six (6) years of receipt by the county, unless there exists an extraordinary and compelling reason for fees to be held longer than six (6) years. Such extraordinary or compelling reasons shall be identified to the county by the district. The county must prepare written findings concurring with the district's reasons, and authorizing the later encumbrance or expenditure of the fees prior to the district so encumbering or expending the funds, or directing a refund of the fees.

E. The current owner of property on which an impact fee has been paid may receive a refund of such fees if the impact fees have not been expended or encumbered within six (6) years of receipt of the funds by the county. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. The county shall notify potential claimants by first-class mail deposited with the United States Postal Service addressed to the owner of the property as shown in the county tax records.

F. An owner's request for a refund must be submitted to the county council in writing within one (1) year of the date the right to claim the refund arises or the date that notice is given, whichever date is later. Any impact fees that are not expended or encumbered within these time limitations, and for which no application for a refund has been made within this one (1) year period, shall be retained and expended consistent with the provisions of this section. Refunds of impact fees shall include any interest earned on the impact fees.

G. Should the county seek to terminate any or all school impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded to the current owner of the property for which a school impact fee was paid. Upon the finding that any or all fee requirements are to be terminated, the county shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two (2) times and shall notify all potential claimants by first-class mail addressed to the owner of the property as shown in the county tax records. All funds available for refund shall be retained for a period of one (1) year. At the end of one (1) year, any remaining funds shall be retained by the county, but must be expended for the district, consistent with the provisions of this section. The notice requirement set forth above shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

H. A developer may request and shall receive a refund, including interest earned on the impact fees, when:

1. The developer does not proceed to finalize the development activity as required by statute or county code or the Uniform Building Code, and

2. No impact on the district has resulted. "Impact" shall be deemed to include cases where the district has expended or encumbered the impact fees in good faith prior to the application for a refund. In the event that the district has expended or encumbered the fees in good faith, no refund shall be forthcoming. However, if within a period of three (3) years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner shall be eligible for a credit. The owner must petition the county and provide receipts of impact fees paid by the owner for a development of the same or substantially similar nature on the same property or some portion thereof. The county shall determine whether to grant a credit, and such determinations may be appealed by following the procedures set forth in Section 21A.43.070.

I. Interest due upon the refund of impact fees required by this section shall be calculated according to the average rate received by the county or the district on invested funds throughout the period during which the fees were retained. (Ord. 11621 § 118, 1994).

Chapter 21A.44
DECISION CRITERIA

Sections:

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21A.44.010 Purpose. The purposes of this chapter are to allow for consistent evaluation of land use applications and to protect nearby properties from the possible effects of such requests by:

A. Providing clear criteria on which to base a decision;

B. Recognizing the effects of unique circumstances upon the development potential of a property;

C. Avoiding the granting of special privileges;

D. Avoiding development which may be unnecessarily detrimental to neighboring properties;

E. Requiring that the design, scope and intensity of development is in keeping with the physical aspects of a site and adopted land use policies for the area; and

F. Providing criteria which emphasize protection of the general character of neighborhoods. (Ord. 10870 § 622, 1993).

21A.44.020 Temporary use permit. A temporary use permit shall be granted by the county, only if the applicant demonstrates that:

A. The proposed temporary use will not be materially detrimental to the public welfare;

B. The proposed temporary use is compatible with existing land uses in the immediate vicinity in terms of noise and hours of operation;

C. The proposed temporary use, if located in a resource zone, will not be materially detrimental to the use of the land for resource purposes and will provide adequate off-site parking if necessary to protect against soil compaction;

D. Adequate public off-street parking and traffic control for the exclusive use of the proposed temporary use can be provided in a safe manner; and

E. The proposed temporary use is not otherwise permitted in the zone in which it is proposed. (Ord. 10870 § 623, 1993).

21A.44.030 Variance. A variance shall be granted by the county, only if the applicant demonstrates all of the following:

A. The strict enforcement of this title creates an unnecessary hardship to the property owner;

B. The variance is necessary because of the unique size, shape, topography or location of the subject property;

C. The subject property is deprived, under this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone;

D. The variance does not create health and safety hazards, is not materially detrimental to the public welfare or is not unduly injurious to property or improvements in the vicinity;

E. The variance does not relieve an applicant from any of the procedural provisions of this title;

F. The variance does not relieve an applicant from any standard or provision that specifically states that no variance from that standard or provision is permitted;

G. The variance does not relieve an applicant from conditions established during prior permit review;

H. The variance does not allow establishment of a use that is not otherwise permitted in the zone in which the proposal is located;

I. The variance does not allow the creation of lots or densities that exceed the base residential density for the zone by more than ten percent;

J. The variance is the minimum necessary to grant relief to the applicant;

K. The variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities;

L. The variance does not relieve an applicant from any provisions of K.C.C. 21A.24, Critical Areas; and

M. Within a special district overlay, the variance does not:

1. Modify, waive or define uses;

2. Waive requirements for special studies or reports; or

3. Reduce vegetation retention standards by more than a total of ten percent. (Ord. 15051 § 224, 2004: Ord. 12479 § 1, 1996: Ord. 11621 § 107, 1994: Ord. 10870 § 624, 1993).

21A.44.040 Conditional use permit. A conditional use permit shall be granted by the county, only if the applicant demonstrates that:

A. The conditional use is designed in a manner which is compatible with the character and appearance of an existing, or proposed development in the vicinity of the subject property;

B. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;

C. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;

D. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;

E. The conditional use is not in conflict with the health and safety of the community;

F. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;

G. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities; and

H. The conditional use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this title. (Ord. 15032 § 51, 2004: Ord. 11621 § 108, 1994: Ord. 10870 § 625, 1993).

21A.44.050 Special use permit. A special use permit shall be granted by the county, only if the applicant demonstrates that:

A. The characteristics of the special use will not be unreasonably incompatible with the types of uses permitted in surrounding areas;

B. The special use will not materially endanger the health, safety and welfare of the community;

C. The special use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;

D. The special use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts;

E. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the special use shall not hinder or discourage the appropriate development or use of neighboring properties; and

F. The special use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this title. (Ord. 10870 § 626, 1993).

21A.44.060 Zone reclassification. A zone reclassification shall be granted only if the applicant demonstrates that the proposal complies with the criteria for approval specified in K.C.C. Title 20.24.180 and 20.24.190 and is consistent with the Comprehensive Plan and applicable community and functional plans. (Ord. 10870 § 627, 1993).

21A.44.070 Urban plan development permit. An urban plan development permit shall be granted only if the applicant demonstrates compliance with the provisions of K.C.C. 21A.39. (Ord. 10870 § 628, 1993).

21A.44.080 Fully contained community (FCC) permit. An application for a FCC permit shall be granted only if the applicant demonstrates compliance with the provisions of K.C.C. 21A.38 and 21A.39. (Ord. 12171 § 9, 1996).

Chapter 21A.45
HOMELESS ENCAMPMENTS

Sections:

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21A.45.010 Purpose. (Effective until January 1, 2015.) It is the purpose of this chapter to ensure the maintenance of a safe environment within the homeless encampments and to address the potential impacts to neighborhoods by establishment of such homeless encampments. (Ord. 15170 § 6, 2005).

21A.45.020 Definitions. (Effective until January 1, 2015.) The definitions in this section apply throughout this chapter and to K.C.C. 20.20.020 unless the context clearly requires otherwise.

A. "Homeless encampment" means a group of homeless persons temporarily residing out of doors on a site with a host and services provided by a sponsor and supervised by a managing agency.

B. "Host" means the owner of the site property that has an agreement with the managing agency to allow the use of property for a homeless encampment. A "host" may be the same entity as the sponsor or the managing agency.

C. "Managing agency" means an organization that has the capacity to organize and manage a homeless encampment. A "managing agency" may be the same entity as the host or the sponsor.

D. "Public health" means the Seattle-King County department of public health.

E. "Sponsor" means a local church or other local, community-based organization that has an agreement with the managing agency to provide basic services and support for the residents of a homeless encampment and liaison with the surrounding community and joins with the managing agency in an application for a county permit. A "sponsor" may be the same entity as the host or the managing agency. (Ord. 15170 § 7, 2005).

21A.45.030 Approval required. (Effective until January 1, 2015.) A homeless encampment may be permitted as a temporary use in accordance with K.C.C. chapter 21A.32 only in compliance with this chapter. (Ord. 15170 § 8, 2005).

21A.45.040 Use and sponsorship agreements. (Effective until January 1, 2015.) The following written agreements shall be provided by the applicant:

A. If the applicant is not the sponsor, an agreement to provide or coordinate basic services and support for the homeless encampment residents and to join with the applicant in all applications for relevant permits; and

B. If the applicant is not the host, an agreement granting permission to locate the homeless encampment at the proposed location and to join with the applicant in all applications for relevant permits. (Ord. 15170 § 9, 2005).

21A.45.050 Application submittal and content. (Effective until January 1, 2015.)

A. An application for a homeless encampment shall be submitted to the department at least thirty days in advance of the desired date to commence the use for a type 1 permit or forty days in advance of the desired date to commence the use for a type 2 permit.

B. In addition to contents otherwise required for such applications, the application shall include:

1. A copy of a written code of conduct adopted by the host or entered into between the host and managing agency addressing the issues identified in the example code of conduct, Attachment A to this ordinance. The written code of conduct must require homeless encampment residents to abide by specific standards of conduct to promote health and safety within the homeless encampment and within the adjoining neighborhoods. Nothing in this subsection is intended to preclude the host and the managing agency from agreeing, in the written code of conduct, to additional terms or standards of conduct stricter than the example code of conduct;

2. The name of the managing agency and the sponsor; and

3. The host signature. (Ord. 15170 § 10, 2005).

21A.45.060 Homeless encampment standards. (Effective until January 1, 2015.) A homeless encampment is subject to the following standards:

A. The maximum number of residents at a homeless encampment site shall be determined taking into consideration site conditions, but in no case shall be greater than one hundred at any one time;

B. The duration of a homeless encampment at any specific location shall not exceed ninety-two days at any one time, including setup and dismantling of the homeless encampment;

C. A homeless encampment may be located at the same site no more than once every twelve months;

D. The host and managing agency will assure all applicable public health regulations, including but not limited to the following, will be met:

1. Sanitary portable toilets;
2. Hand washing stations by the toilets;
3. Food preparation or service tents;
4. Security tents; and
5. Refuse receptacles;

E. The homeless encampment shall be within a half mile of a public transportation stop or the sponsor or host must demonstrate the ability for residents to obtain access to the nearest public transportation stop through sponsor or host provided van or car pools. During hours when public transportation is not available, the sponsor or host shall also make transportation available to anyone who is rejected from or ordered to leave the homeless encampment;

F. The homeless encampment site must be buffered from surrounding properties with:

1. A minimum twenty-foot setback in each direction from the boundary of the lot on which the homeless encampment is located, excluding access;
2. Established vegetation sufficiently dense to obscure view; or
3. A six foot high, view-obscuring fence;

G. No permanent structures shall be erected on the homeless encampment site;

H. A regular trash patrol in the immediate vicinity of the homeless encampment site shall be provided;

I. Public health guidelines on food donations and food handling and storage, including proper temperature control, shall be followed and homeless encampment residents involved in food donations and storage shall be made aware of these guidelines;

J. The managing agency shall not permit children under the age of eighteen to stay overnight in the homeless encampment except under exigent circumstances. If a child under the age of eighteen, either alone or accompanied by a parent or guardian, attempts to stay overnight, the managing agency will immediately contact child protective services and endeavor to find alternative shelter for the child and any accompanying parent or guardian;

K. The managing agency shall keep a log of all people who stay overnight in the homeless encampment, including names and dates;

L. The managing agency shall take all reasonable and legal steps to obtain verifiable identification, such as a driver's license, government-issued identification card, military identification or passport from prospective and homeless encampment residents;

M. The managing agency shall enforce the written code of conduct;

N. The site property is owned or leased by the sponsor or an affiliated entity; and

O. The host shall provide a transportation plan as part of the permit process. (Ord. 15170 § 11, 2005).

21A.45.070 Parking impacts. (Effective until January 1, 2015.) On-site parking spaces of the host use shall not be displaced unless sufficient parking remains available for the host's use to compensate for the loss of on-site parking spaces. (Ord. 15170 § 12, 2005).

21A.45.080 Community notice and informational meeting. (Effective until January 1, 2015.) The managing agency, in partnership with the sponsor, shall:

A. At least fourteen days before the anticipated start date of the homeless encampment, provide notification to all residences and businesses within five hundred feet of the boundary of the proposed homeless encampment site, but the area shall be expanded as necessary to provide notices to at least twenty different residences or businesses, as well as any unincorporated area council, if applicable, and any homeowner association representing residents receiving notice. The notice shall contain the following specific information:

1. Name of sponsor;
2. Name of host if different from the sponsor;
3. Date the homeless encampment will begin;
4. Length of stay;
5. Maximum number of residents allowed;
6. Planned location of the homeless encampment;
7. Dates, times and locations of community informational meetings about the homeless encampment;
8. Contact information including names and phone numbers for the managing agency and the sponsor; and
9. A county contact person or agency; and

B. Conduct at least one community informational meeting held on the host site, or nearby, at least ten days before the anticipated start date of the homeless encampment. The purpose of the meeting is to provide those residences and businesses that are entitled to notice under this section with information regarding the proposed duration and operation of the homeless encampment, conditions that will be placed on the operation of the homeless encampment and requirements of the written code of conduct, and to answer questions regarding the homeless encampment. (Ord. 15170 § 13, 2005).

21A.45.090 Compliance with permit conditions and written code of conduct. (Effective until January 1, 2015.)

A. In order to assess compliance with the terms of the permit, inspections may be conducted at reasonable times without prior notice by the fire district, public health or department staff. The managing agency shall implement all directives of the fire district within forty-eight hours. Public health and department directives shall be implemented within the time specified by the respective agencies.

B. Failure by the managing agency to take action against a resident who violates the terms of the written code of conduct may result in cancellation of the permit. (Ord. 15170 § 14, 2005).

21A.45.100 Option to modify standards. (Effective until January 1, 2015.) An applicant for a homeless encampment may apply for a temporary use permit that applies standards that differ from those established by K.C.C. 21A.45.030, 21A.45.040, 21A.45.050, 21A.45.060, 21A.45.070, 21A.45.080 and 21A.45.090. In addition to all other permit application requirements, the applicant shall submit a description of the requirements to be modified and shall demonstrate how the modification will result in a safe homeless encampment under the specific circumstances of the application. The department shall review the proposed modifications and shall either deny or approve the application, with conditions if necessary, to ensure a safe homeless encampment with minimal impacts to the host neighborhood. The hearing examiner shall expedite the hearing on an appeal of the department's decision under this section. (Ord. 15170 § 15, 2005).

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Chapter 21A.50
ENFORCEMENT

Sections:

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21A.50.010 Purpose. The purpose of this chapter is to promote compliance with this title by establishing enforcement authority, defining violations, and setting standards for initiating the procedures set forth in K.C.C. Title 23, Enforcement, when violations of this title occur. (Ord. 10870 § 629, 1993).

21A.50.020 Authority and application. The director is authorized to enforce this title, any implementing administrative rules adopted under K.C.C. chapter 2.98 administration, and approval conditions attached to any land use approval, through revocation or modification of permits or through the enforcement, penalty and abatement provisions of K.C.C. Title 23, Code Compliance. (Ord. 15051 § 225, 2004: Ord. 10870 § 630, 1993).

21A.50.022 Inspections. The director is authorized to make such inspections and take such actions as may be required to enforce this title. (Ord. 15051 § 226, 2004).

21A.50.025 Hazards. If the director determines that an existing site, as a result of alterations regulated under this title has become a hazard to life and limb, endangers property or the environment, or adversely affects the safety, use or stability of a public way or public drainage channel, the owner of the property upon which the alterations are located, or other person or agent in control of the property, upon receipt of notice in writing from the director, shall within the period specified in the notice restore the site affected by the alterations or remove or repair the alterations so as to eliminate the hazard and conform with this title. (Ord. 15051 § 227, 2004).

21A.50.030 Violations defined. No building permit or land use approval in conflict with the provisions of this title shall be issued. Structures or uses which do not conform to this title, except legal nonconformances specified in K.C.C. 21A.32 and approved variances, are violations subject to the enforcement, penalty and abatement provisions of Title 23, including but not limited to:

A. Establishing a use not permitted in the zone in which it is located;

B. Constructing, expanding or placing a structure in violation of setback, height and other dimensional standards in this title;

C. Establishing a permitted use without complying with applicable development standards set forth in other titles, ordinances, rules or other laws, including but not limited to, road construction, surface water management, the Fire Code, and rules of the department of public health;

D. Failing to carry out or observe conditions of land use or permit approval, including contract development standards;

E. Failing to secure required land use or permit approval prior to establishing a permitted use; and

F. Failing to maintain site improvements, such as landscaping, parking or drainage control facilities as required by this code or other King County ordinances. (Ord. 10870 § 631, 1993).

21A.50.035 Critical areas violations - corrective work required.

A. A person who alters a critical area or buffer in violation of law shall undertake corrective work in compliance with this chapter and K.C.C. chapter 23.08. When feasible, corrective work shall include restoration of the critical area and buffer. Corrective work shall be subject to all permits or approvals required for the type of work undertaken. In addition, the violator shall be subject to all fees associated with investigation of the violation and the need for corrective work.

B. When a wetland or buffer is altered in violation of this title, restoration of the wetland and buffer shall comply with the restoration standards in K.C.C. 21A.24.340.

C. When an aquatic area or buffer is altered in violation of this title, restoration of the stream and buffer shall comply with the restoration standards in K.C.C. 21A.24.380.

D. All corrective work shall be completed within the time specified in the corrective work plan, but in no case later than one year from the date the corrective work plan is approved by the department, unless the director authorizes a longer period. The violator shall notify the department when restoration measures are installed and monitoring is commenced.

E. Any failure to satisfy corrective work requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within thirty days after it is due or comply with other provisions of an approved corrective work plan shall constitute a default, and the department may demand payment of any financial guarantees or require other action authorized by K.C.C. Title 27A or other applicable law.

F. Reasonable access to the corrective work site shall be provided to King County for the purpose of inspections during any monitoring period. (Ord. 15051 § 228, 2004).

21A.50.037 Critical areas violations - corrective work plan and monitoring.

A. Except as otherwise provided in subsection D. of this section, a person who violates this title shall submit a proposed corrective work plan to the department for approval. The department may modify the plan and shall approve it only if the department determines that the plan complies with the requirements for mitigation plans in K.C.C. 21A.24.130.

B. All corrective work shall be accomplished according to the approved corrective work plan, and corrective work shall not be undertaken until after approval of the plan by the department.

C. Corrective work shall be monitored in accordance with the approved corrective work plan. Monitoring may be required for up to five years. Monitoring under the corrective work plan shall comply with the monitoring requirements in K.C.C. 21A.24.130.

D. The director may exempt from this section emergency response activities or other actions required to be undertaken immediately or within a time too short to allow full compliance with this title or to avoid an imminent threat to pubic health or safety or to property. (Ord. 15051 § 229, 2004).

21A.50.040 Permit suspension, revocation or modification.

A. Permit suspension, revocation or modification shall be carried out through the procedures set forth in K.C.C. Title 23. Any permit, variance, or other land use approval issued by King County pursuant to this title may be suspended, revoked or modified on one or more of the following grounds:

1. The approval was obtained by fraud;
2. The approval was based on inadequate or inaccurate information;
3. The approval, when given, conflicted with existing laws or regulations applicable thereto;
4. An error of procedure occurred which prevented consideration of the interests of persons directly affected by the approval;
5. The approval or permit granted is being exercised contrary to the terms or conditions of such approval or in violation of any statute, law or regulation;
6. The use for which the approval was granted is being exercised in a manner detrimental to the public health or safety;
7. The holder of the permit or approval interferes with the director or any authorized representative in the performance of his or her duties; or
8. The holder of the permit or approval fails to comply with any notice and order issued pursuant to K.C.C. Title 23.

B. Authority to revoke or modify a permit or land use approval shall be exercised by the issuer, as follows:

1. The council may, after a recommendation from the examiner, revoke or modify any residential density incentive approval, transfer of development credit, Urban Planned Development, preliminary subdivision, zone reclassification or special use permit;
2. The adjustor may revoke or modify any variance or conditional use permit, provided that if it was reviewed through a public hearing, a new public hearing shall be held on its revocation or modification; and
3. The director may revoke or modify any permit or other land use approval issued by the director. (Ord. 10870 § 632, 1993).

21A.50.050 Initiation of revocation or modification proceedings.

A. The director may suspend any permit, variance or land use approval issued by any King County issuing agency and processed by the department pending its revocation or modification, or pending a public hearing on its revocation or modification;

B. The issuing agency may initiate proceedings to revoke or modify any permit or land use approval it has issued; and

C. Persons who are aggrieved may petition the issuing agency to initiate revocation or modification proceedings, and may petition the director to suspend a permit, variance or land use approval pending a public hearing on its revocation or modification. (Ord. 10870 § 633, 1993).

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Chapter 21A.55
DEMONSTRATION PROJECTS

Sections:

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21A.55.010 Purpose. Purpose. The purpose of this section is to provide for "demonstration projects" as a mechanism to test and evaluate alternative development standards and processes prior to amending King County policies and regulations. Alternative development standards might include standards affecting building and/or site design requirements. Alternative processes might include permit review prioritization, alternative review and revision scheduling, or staff and peer review practices. All demonstration projects shall have broad public benefit through the testing of new development regulations and shall not be used solely to benefit individual property owners seeking relief from King County development standards. A demonstration project shall be designated by the Metropolitan King County Council. Designation of each new demonstration project shall occur through an ordinance which amends this code and shall include provisions that prescribe the purpose(s) and location(s) of the demonstration project. Demonstration projects shall be located in urban and/or rural areas which are deemed most suitable for the testing of the proposed alternative development regulations. Within such areas development proposals may be undertaken to test the efficacy of alternative regulations that are proposed to facilitate increased quality of development and/or increased efficiency in the development review processes. (Ord. 12627 § 1, 1997).

21A.55.020 Demonstration project - Authority, application and designation.

A. Authority and Application of Demonstration Projects. In establishing any demonstration project, the council shall specify the following provisions:

1. The purpose of the demonstration project;
2. The location(s) of the demonstration project;
3. The scope of authority to modify standards and the lead agency/department with authority to administer the demonstration project;
4. The development standards established by this title or other titles of the King County Code which affect the development of property that are subject to administrative modifications or waivers;
5. The process through which requests for modifications or waivers are reviewed and any limitations on the type of permit or action;
6. The criteria for modification or waiver approval;
7. The effective period for the demonstration project and any limitations on extensions of the effective period;
8. The scope of the evaluation of the demonstration project and the date by which the executive shall submit an evaluation of the demonstration project; and
9. The date by which the executive shall submit an evaluation of specific alternative standards and, if applicable, proposed legislation.

B. A demonstration project shall be designated by the Metropolitan King County Council through the application of a demonstration project overlay to properties in a specific area or areas. A demonstration project shall be indicated on the zoning map or a notation in the SITUS File maintained by the department of development and environmental services, by the suffix "-DPA"
(meaning demonstration project area) following the map symbol of the underlying zone or zones. Within a designated demonstration project area, approved alternative development regulations may be applied to development applications. (Ord. 12627 § 2, 1997).

21A.55.030 Demonstration project - General provisions.

A. The demonstration projects set forth in this chapter are the only authorized demonstration projects. New or amended demonstration projects to carry out new or different goals or policies shall be adopted as part of this chapter.

B. Demonstration projects must be consistent with the King County Comprehensive Plan. Designation of a demonstration project and its provisions to waive or modify development standards must not require nor result in amendment of the comprehensive plan nor the comprehensive land use map.

C. Unless they are specifically modified or waived pursuant to the provisions of this chapter, the standard requirements of this title and other county ordinances and regulations shall govern all development and land uses within a demonstration project area. Property-specific development standards (P-suffix conditions) as provided in K.C.C. 21A.38 shall supersede any modifications or waivers allowed by the provisions of this chapter.

D. Demonstration project sites should be selected so that any resulting amended development standards or processes can be applied to similar areas or developments. Similar areas could include those with similar mixes of use and zoning. Similar developments could include types of buildings such as commercial or multifamily and types of development such as subdivisions or redevelopment. (Ord. 12627 § 3, 1997).

21A.55.050 Demonstration project overlay - rural forest demonstration project.

A.The purpose of the rural forest demonstration project is to test techniques to maintain long-term forest uses in areas with a predominant parcel size of significantly less than eighty acres that are located in proximity to residential development. The demonstration project will also provide information and data to assist in the development of King County Comprehensive Plan policies to guide application and refinement of forest protection regulations.

B. The rural forest demonstration project will be implemented on the five-hundred-ten-acre site located east of the Rattlesnake Mountain Scenic Area, as shown in Attachment A* to Ordinance 13275.

C. The rural forest demonstration project shall include:

1. Preparation of a forest management plan for the entire demonstration project site. The forest management plan shall be developed jointly by the department of natural resources and parks and the property owner with input from the Washington state Department of Natural Resources, local tribes and citizens, and shall be approved by the director of the department of natural resources and parks. The forest management plan shall include:

a. an inventory of existing conditions, including current tree species and respective size ranges, understory composition, critical areas, natural and human induced disturbance regimes and history of ecosystem changes;

b. objectives for forest management including water quality protection, habitat enhancement, maintenance of scenic areas, surface water management and minimal impacts to neighbors.

c. a reforestation element consistent with these management objectives including establishment of stream buffers of one hundred eighty-three feet for Class II streams with salmonids and one hundred feet for Class III streams; and

d. an operation and maintenance element including anticipated harvest activities;

2. Creation of a dedicated fund of the Uplands Snoqualmie Valley Homeowners Association the proceeds of which may be expended solely to implement and monitor the forest management plan. The net proceeds of any harvest of forest products from the common tracts of the Uplands Snoqualmie Valley shall be deposited in such fund to the extent necessary to bring the aggregate amount of money in such fund to an amount reasonably anticipated to be needed to pay the cost of implementing and monitoring the forest management plan for the current and next two calendar years;

3. Creation of a Stewardship Committee of the Uplands Snoqualmie Valley Homeowners Association to implement the forest management plan. The stewardship committee shall, in consultation with King County and Washington state Department of Natural Resources: ensure sufficient funding is available for implementation of the forest management plan, hire a qualified forester or foresters to implement the forest management plan and hire qualified staff to monitor implementation of the forest management plan and prepare required reports. King County and the Washington state Department of Natural Resources shall annually inspect the property for compliance with the forest management plan consistent with the terms of the conservation easement and King County shall offer training to the members of the stewardship committee on forestry techniques and issues;

***Available at the office of the clerk of the council.**

4. Application and review of a formal subdivision of forty-one lots, exclusive of common tracts, on the five hundred-ten-acre site. The subdivision and infrastructure shall be designed to integrate with the forest landscape, including pavement widths no wider than needed to meet safety considerations. A goal of the demonstration project is to test the marketability of these forest lots in a timely manner; to that end, it is a goal of King County to render a decision on the subdivision application within six months of submittal of the application. A priority review process shall be implemented as permitted by K.C.C. 21A.55.010. The department of development and environmental services shall assign a permit coordinator and a project review team to complete review of all aspects of the application, and shall negotiate appropriate fees for the review process with the applicant. Neither the designation of the site as a demonstration project nor approval of the forest management plan constitute approval of the subdivision application or in any way limit King County discretion in SEPA review or application of regulations to the subdivision application;

5. Dedication or conveyance, upon final plat approval, to King County or a qualified nonprofit conservation organization of a conservation easement in perpetuity upon the demonstration project site that: prohibits any future subdivision activity; prohibits all development of the site other than residential development of no more than forty-one lots; restricts such residential development and associated lawn, landscaped areas, driveways and fenced areas to an area not to exceed two acres within each lot; restricts the uses of the remaining nonresidential portion of the site to open space and forest practices and incidental uses necessary for the residential use on the forty-one lots such as for roads, access drives (not including on-site driveways) utilities and storm detention; provides for the dedicated fund as described in K.C.C. 21A.55.050C.2; requires the owner to exercise its reasonable best efforts to implement the forest management plan and provides for enforcement of the terms of the conservation easement first through nonbinding mediation. Adoption of this demonstration project shall be subject to council review of the conservation easement, a copy of which shall be provided to the council by August 20, 1998; and

6. An inventory of properties within King County with similar characteristics to the rural forest demonstration project site and an analysis of the potential effects of development of those properties under the same requirements as the demonstration project.

D. Application to modify or waive development standards of K.C.C. Title 21A for this individual development proposal shall be administratively approved by the director of the department of development and environmental services and shall be consistent with an approved forest management plan developed for the entire five-hundred-ten acre site.

E. The application to modify or waive development standards for this development proposal shall be evaluated on the merits of the specific proposal. Approval or denial of a proposed modification or waiver shall not be construed as precedent setting for elsewhere in the county.

F. Modification or waivers approved pursuant to the rural forest demonstration project shall be in addition to those modifications or waivers that are currently allowed by K.C.C. Title 21A. The range of proposed modifications to development regulations that may be considered pursuant to the rural forest demonstration project shall only include the following zoning code regulations:

1. Development Standards - Landscaping and Water Use, K.C.C. chapter 21A.16, limited to the following sections:

a. landscaping - street frontages, K.C.C. 21A.16.050;

b. landscaping - interior lot lines, K.C.C. 21A.16.060; and

c. landscaping - additional standards for required landscape areas, K.C.C. 21A.16.090.

2. Development Standards - Parking and Circulation, K.C.C. chapter 21A.18, limited to the following sections:

a. pedestrian and bicycle circulation and access, K.C.C. 21A.18.100; and

b. off-street parking plan design standards, K.C.C. 21A.18.110.

G. The modification or waiver review process is as follows:

1. Requests for modifications or waivers may only be submitted in relation to a formal subdivision proposal;

2. Requests shall be:

a. submitted to the department of development and environmental services prior to or in conjunction with the subdivision application for preliminary approval of a formal subdivision on the project site; and

b. in writing, along with any supporting documentation. The supporting documentation must illustrate how the proposed modification meets the criteria of K.C.C. 21A.55.050.H;

3. Notice of application, review and approval of proposed modifications or waivers submitted in conjunction with a formal subdivision application shall be treated as a Type 2 land use decision. In approving a proposed modification or waiver, the director must conclude that the criteria for approval in K.C.C. 21A.55.050.H have been met;

4. A preapplication meeting to determine the need for, and the likely scope of, a proposed modification or modifications or waiver or waivers shall be required prior to submittal of a modification request; and

5. Administrative appeals of director approved modifications or waivers shall be combined with consideration of the underlying application for preliminary subdivision approval.

H. The application for a rural forest demonstration project must, for modification or waiver approval, demonstrate how the proposed project, with modifications or waivers to the code, will be consistent with and implement the approved forest management plan. This shall be demonstrated by documenting that the development with modifications or waivers:

1. Enhances the preservation of forestry for resource value, open space, scenic views and wildlife habitat;

2. Reduces impacts on the natural environment or restores natural functions; and

3. Supports the integration of forest uses and homesites.

I. The forest management plan for a rural forest demonstration project shall be developed and a decision on its approval or denial shall be reached no more than thirty days after designation of the site as a rural forest demonstration project. If the forest management plan is not approved thirty days after designation as a rural forest demonstration project, the executive shall propose restoring the site to its prior land use designations and zoning classifications as part of the 1999 amendments to the King County Comprehensive Plan. Regulatory modification or waiver applications authorized by Ordinance 13275 shall not be accepted by the department of development and environmental services after March 1, 1999. Modifications or waivers to the King County Code contained within an approved development proposal shall be valid as long as the underlying permit. The rural forest demonstration project shall continue for a period of five years from the final approval of the subdivision application, with reporting periods specific to measuring the goals of the forest management plan.

J. The director of the department of natural resources and parks shall submit a report on the rural forest demonstration project to the council following approval of the forest management plan evaluating the process used to prepare the forest management plan, an inventory of other properties that have similar characteristics to the demonstration project site, the applicability and potential effects of allowing these other properties to develop under the same requirements as the demonstration project and recommending any changes that should be made to county policy or regulations to maintain long-term forestry in areas no longer managed for large-scale commercial forestry. In addition, a report shall be prepared annually by qualified staff retained by the Stewardship Committee of the Uplands Snoqualmie Valley Homeowners Association or subsequent management entity of the forest management plan and submitted to the Rural Forest Commission. The annual reporting shall commence six months following final approval of the subdivision. The first two annual reports shall describe the annual work program and budget for implementation of the forest management plan, progress made in implementing the work program, and success in marketing the homesites. Annual reports for the subsequent three years shall document the annual budget and continued progress in implementing the forest management plan, the level of involvement by homeowners in forest management and any problems in implementation generated by homeowners. The Rural Forest Commission shall review the annual reports and shall inform the director of the department of natural resources and parks if it has found that necessary implementation measures of the forest management plan have not been followed. If so, and if the director of the department of natural resources and parks determines it is necessary, the director shall request the Stewardship Committee of the Uplands Snoqualmie Valley Homeowners Association to take corrective action. If satisfactory action is not taken, the director may invoke the enforcement mechanism of the conservation easement. The annual reports will also provide information for further consideration of changes to county policies or regulations for maintenance of long-term forestry. (Ord. 15606 § 31, 2006: Ord. 14199 § 239, 2001: Ord. 13275 § 1, 1998).

21A.55.060 Demonstration project overlay – low-impact development and Built Green.

A. The purpose of the low-impact development and Built Green demonstration projects is to determine whether innovative permit processing, site development and building construction techniques based on low-impact development and building construction practices result in environmental benefits, affordable housing and lead to administrative and development cost savings for project applicants and King County. The demonstration projects will provide information on application of these techniques to an urban infill mixed-use redevelopment project, an urban single family residential project, a Vashon Town housing project and an urban infill residential redevelopment project. The demonstration projects will also provide information to assist in the development of King County Comprehensive Plan policies to guide application and refinement of regulations such as zoning, subdivision, roads and stormwater regulations. Expected benefits from the demonstration projects include: improved conditions of habitat, ground and surface waters within a watershed; reduced impervious surface areas for new site infrastructure in developed and redeveloped projects; greater use of recycled-content building materials and more efficient use of energy and natural resources; and the opportunity to identify and evaluate potential substantive changes to land use development regulations that support and improve natural functions of watersheds. The demonstration projects will also evaluate whether consolidated administrative approval of modifications or waivers and any subsequent hearings, if required, effectively speeds the development review process while maintaining land use coordination and environmental protection, and whether that leads to administrative costs savings for project applicants and King County.

B. The department shall implement the low-impact development and Built Green demonstration projects in all or a portion of each of the following: the White Center neighborhood of the Greenbridge Project as described in Attachment A* to Ordinance 14662; the unincorporated Urban Area north of Burien at approximately 4th Avenue Southwest and Southwest 116th Street known as Park Lake Homes II as described in Attachment A* to Ordinance 16099 the unincorporated Urban Area east of Renton at approximately 148th Avenue Southeast and Southeast 128th Street as described in Attachment B* to Ordinance 14662; and the Vashon Town as described in Attachment C* to Ordinance 14662. If the geographic boundaries of the Greenbridge Project are expanded, the provisions of this ordinance may apply provided the criteria in subsection L. of this section are met.

C. A request by the applicant to modify or waive development standards for the development proposals shall be evaluated by the department based on the criteria in subsection L. of this section. A request shall first be either approved or denied administratively and may be further reviewed as described in subsection H.3. of this section. Approval or denial of the proposed modification or waiver shall not be construed as applying to any other development application either within the demonstration project area or elsewhere in the county.

D. A modification or waiver approved by the department in accordance with the low-impact development and Built Green demonstration projects shall be in addition to those modifications or waivers that are currently allowed by K.C.C. Title 9 and this title. The range of proposed modifications or waivers to development regulations that may be considered pursuant to the low-impact development and Built Green demonstration projects shall include only the following King County code regulations and related public rules:

1. Drainage review requirements: K.C.C. chapter 9.04 and the Surface Water Design Manual;

2. King County road standards: K.C.C. 14.42.010 and the King County road design and construction standards;

3. Density and dimensions: K.C.C. chapter 21A.12, if the base density is that of the zone applied to the entire demonstration project and if the minimum density is not less than the minimum residential density of the zone calculated for the portion of the site to be used for residential purposes, in accordance with K.C.C. 21A.12.060. However, if a demonstration project provides fifty-one percent or more of the housing to households that, at the time of initial occupancy, have incomes of eighty percent or less of median income for King County as periodically published by the United States Department of Housing and Urban Development, or its successor agency, or if fifty-one percent or more of the rental housing is permanently priced to serve low-income senior citizens, then the director may approve:

a. less than the minimum density; and

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b. for parcels within the area bounded by SW Roxbury Street, 12th Avenue SW, SW 102nd Street and 2nd Avenue SW that are developed in conjunction with the Greenbridge Project, greater than the maximum density, up to a maximum of R-48 (Residential forty-eight dwelling units per acre);

4. Design requirements: K.C.C. chapter 21A.14;

5. Landscaping and water use: K.C.C. chapter 21A.16;

6. Parking and circulation: K.C.C. chapter 21A.18;

7. Signs: K.C.C. chapter 21A.20; and

8. Environmentally sensitive areas: K.C.C. chapter 21A.24, if the modification results in a net improvement to the functions of the sensitive area.

E. A demonstration project authorized by this section and located in the R-12 through R-48 zones may contain residential and limited nonresidential uses subject to the following provisions:

1. The demonstration project may request a modification or waiver of any of the development conditions contained in K.C.C. 21A.08.030, 21A.08.040, 21A.08.050, 21A.08.060, 21A.08.070, 21A.08.080 and 21A.08.100, subject to the review process described in subsection H. of this section and the criteria described in subsection L. of this section.

2. The demonstration project may include single family detached residential dwelling units as a permitted use, subject to the review process described in subsection H. of this section and the criteria described in subsection L. of this section.

3. The demonstration project may include any nonresidential use allowed as a permitted use in the NB zone, subject to any development conditions contained in K.C.C. 21A.08.040, 21A.08.050, 21A.08.060, 21A.08.070, 21A.08.080 and 21A.08.100, without the need to request a modification or waiver as described in subsection H. of this section. The applicant may request a modification or waiver of the development conditions contained in K.C.C. 21A.08.030, 21A.08.040, 21A.08.050, 21A.08.060, 21A.08.070, 21A.08.080, and 21A.08.100, subject to the criteria in subsection L. of this section. If a nonresidential use is permitted in the R-12 through R-48 zones, subject to development conditions, and is permitted in the NB zone without development conditions, the use shall be permitted in the demonstration project without development conditions and without the need to request a modification or waiver.

4. If a nonresidential use is subject to a conditional use permit in the R-12 through R-48 zones and not subject to a conditional use permit in the NB zone, the use shall be permitted in the demonstration project without requiring a conditional use permit.

5. If a use is subject to a conditional use permit in both the R-12 through R-48 zones and the NB zone or only in the NB zone, the use may be permitted in the demonstration project if the demonstration project applies for and obtains a conditional use permit and satisfies the conditional use permit criteria.

6. Uses authorized by this subsection shall be allowed only as part of a demonstration project under this section. All such uses shall be subject to the development standards in KCC 21A.12.030, except as may be modified or waived under subsection D. of this section and this subsection E.

F. A site in the NB and R-12 through R-48 zones located in a demonstration project authorized by this section may contain residential uses subject to the following:

1. The demonstration project may request a modification or waiver for the site of any of the development conditions contained in K.C.C. 21A.08.030, 21A.08.040, 21A.08.050, 21A.08.060, 21A.08.070, 21A.08.080 and 21A.08.100, subject to the review process described in subsection H. of this section and the criteria described in subsection M. of this section;

2. The site may include single family detached residential dwelling units as a permitted use, subject to the review process under subsection H. of this section and the criteria described in subsection M of this section;

3. The site may include any residential use allowed as a permitted use in the R-12 through R-48 zones, subject to any development conditions in K.C.C. 21A.08.030, without the need to request a modification or waiver under subsection H. of this section. The applicant may request a modification or waiver of the development conditions in K.C.C. 21A.08.030, subject to the criteria in subsection M. of this section. If a residential use is permitted, subject to development conditions, in the NB zone and is permitted without conditions in the R-12 through R-48 zones, the use shall be permitted without development conditions and without the need to request a modification or waiver;

4. If a residential use is a conditional use in the NB zone and is a permitted use in the R-12 through R-48 zones, the use shall be permitted as a permitted use under the conditions that apply in the R12 through R-48 zones;

5. If a use is subject to a conditional use permit in both the R-12 through R-48 zones and the NB zone or only in the R-12 through R-48 zones, the use shall be permitted in the demonstration project if the demonstration project applies for and obtains a conditional use permit and satisfies the conditional use permit criteria; and

6. Uses authorized by this subsection shall be allowed only as part of a demonstration project under this section. All such uses shall be subject to the development standards in K.C.C. 21A.12.040, except as may be modified or waived under subsection D. of this section and this subsection F.

G. This subsection authorizes a residential basics program for townhouse and apartment building types if such housing are located in a demonstration project located in the R-12 through R-48 zones, even if not otherwise authorized by the department of development and environmental services public rules chapter 16-04: residential basics program.

H.1. Requests for a modification or waiver made in accordance with this section may only be submitted in writing in relation to the following types of applications:

a. a site development permit;
b. a binding site plan;
c. a building permit;
d. a short subdivision;
e. a subdivision;
f. a conditional use permit; or
g. a clearing and grading permit.

2. Requests shall be submitted to the department in writing before or in conjunction with an application for one or more of the permits listed in this subsection, together with any supporting documentation. The supporting documentation must illustrate how the proposed modification meets the criteria of subsection L. of this section.

3. Except for an applicant's request for a modification or waiver submitted in conjunction with an application for a subdivision, the notice of application, review and approval of a proposed modification or waiver shall be treated as a Type 2 land use decision in accordance with K.C.C. 20.20.020. The request for a modification or waiver submitted in conjunction with an application for a subdivision shall be treated as a Type 3 land use decision in accordance with K.C.C. 20.20.020.

4. A preapplication meeting with the applicant and the department to determine the need for and the likely scope of a proposed modification or waiver is required before submittal of such a request. The department of natural resources and parks and the department of transportation shall be invited to participate in the preapplication meeting, if necessary.

5. If the applicant requests a modification or waiver of K.C.C. 9.04.050 or the Surface Water Design Manual, the director shall consult with the department of natural resources and parks before granting the modification or waiver.

6. If the applicant requests a variance from the county road standards, the director shall refer the request to the county road engineer for decision under KCC 14.42.060, with the right to appeal within the department of transportation as provided in K.C.C. 14.42.062. The purposes of this demonstration ordinance are intended as a factor to be considered relative to the public interest requirement for road variances described in K.C.C. 14.42.060.

7. Administrative appeals of modifications or waivers approved by the director shall be combined with any appeal of the underlying permit decision, if the underlying permit is subject to appeal.

I. The hearing examiner may consider an environmental impact statement adequacy appeal in conjunction with a demonstration project plat appeal if the environmental impact statement is prepared by a lead agency other than the department and if its adequacy has not previously been adjudicated, even if not otherwise authorized by K.C.C. 20.44.120.

J. An approved development proposal for any of the applications listed in subsection H.1. of this section, including site plan elements or conditions of approval, may be amended or modified at the request of the applicant or the applicant's successor in interest designated by the applicant in writing. The director may administratively approve minor modifications to an approved development proposal. Modifications that result in major changes as determined by the department or as defined by the approval conditions, shall be treated as a new application for purposes of vesting and shall be reviewed as applicable to the underlying application pursuant to K.C.C. 20.20.020. Any increase in the total number of dwelling units above the maximum number set forth in the development proposal permit or approval shall be deemed a major modification. The county, through the applicable development proposal permit or approval conditions, may specify additional criteria for determining whether proposed modifications are major or minor. The modifications allowed under this section supercede other modification or revision provisions of K.C.C. Title 16, Title 19A and this title.

K.1. The preliminary subdivision approval of a subdivision with more than four hundred units that is part of a demonstration project under this section shall be effective for eighty-four months, even if not otherwise authorized by K.C.C. 19A.12.020. The director may administratively grant a one-time extension, extending the preliminary subdivision approval an additional five years, only if the applicant has shown substantial progress towards development of the demonstration project. Before granting the extension, the director will assess the applicant's compliance with the demonstration project conditions and may modify or impose new standards deemed necessary for the public health or safety.

2. A code modification or waiver approved under this section is effective during the validity of the underlying development permit or for forty-eight months, whichever is longer.

L.1. To be eligible to use the provisions of the demonstration project, development proposals must be located within the boundaries of the Greenbridge Project as described in Attachment A* to Ordinance 15654, or as may be modified as described in subsection B*. of this section; in the unincorporated urban area north of Burien at approximately 4th Avenue Southwest and Southwest 116th Street known as Park Lake Homes II as described in Attachment A* to Ordinance 16099; in the area east of Renton at approximately 148th Avenue Southeast and Southeast 128th Street as described in Attachment B* to Ordinance 14662; and in the Vashon Town as described in Attachment C* to Ordinance 14662.

2. Proposals to modify or waive development regulations for a development application must be consistent with general health, safety and public welfare standards, and must not violate state or federal law.

3.a. Applications must demonstrate how the proposed project, when considered as a whole with the proposed modifications or waivers to the code, will meet all of the criteria listed in this subsection, as compared to development without the modification or waiver, and achieves higher quality urban development; enhances infill, redevelopment and greenfield development; optimizes site utilization; stimulates neighborhood redevelopment; and enhances pedestrian experiences and sense of place and community.

b. Any individual request for a modification or waiver must meet two or more of the following criteria:

(1) uses the natural site characteristics to protect the natural systems;

(2) addresses stormwater and drainage safety, function, appearance, environmental protection and maintainability based upon sound engineering judgment;

(3) contributes to achievement of a two-star or a three-star rating for the project site under the Built Green "Green Communities" program recognized by the Master Builders Association of King and Snohomish counties; or

(4) where applicable, reduces housing costs for future project residents or tenants without decreasing environmental protection.

4. The criteria of this subsection supercede other variance, modification or waiver criteria and provisions of K.C.C. Title 9 and Title 21A.

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(King County 6-2008)

M.1. Except for Park Lake Homes II and the part of Greenbridge that was added to the demonstration project by Ordinance 15654, regulatory modification and waiver applications, or both, authorized by this section shall be filed with the department by December 31, 2007, or by such a later date as may be specified in the conditions of any development approval for any type of modification or waiver for which the opportunity for future application is expressly granted in those conditions. For Park Lake Homes II and the part of Greenbridge that was added to the demonstration project by Ordinance 15654, regulatory modification and waiver applications, or both, authorized by this section shall be filed with the department by December 31, 2010, or by such a later date as may be specified in the conditions of any development approval for any type of modification or waiver for which the opportunity for future application is expressly granted in those conditions.

2. Modifications or waivers contained within an approved development proposal shall be valid as long as the underlying permit or development application approval is valid. A permit or approval that implements an approved code modification or waiver shall be considered under the zoning and other land use control ordinances in effect on the date the applicable complete code modification or waiver application is filed.

3. Except for Park Lake Homes II and the part of Greenbridge that was added to the demonstration project by Ordinance 15654, modifications or waivers that are approved as separate applications must be incorporated into a valid permit or development application that must be filed by December 31, 2007. For Park Lake Homes II and the part of Greenbridge that was added to the demonstration project by Ordinance 15654, modifications or waivers that are approved as separate applications must be incorporated into a valid permit or development application that must be filed by December 31, 2010.

4. The director may extend the date for filing the demonstration project permit and development applications for a maximum of twelve months.

5. Except for Park Lake Homes II and the part of Greenbridge that was added to the demonstration project by Ordinance 15654, the ability to establish the location and maximum size of uses that are not otherwise permitted in the R-12 through R-48 zones as set forth in subsection E. of this section expires December 31, 2007. For Park Lake Homes II and the part of Greenbridge that was added to the demonstration project by Ordinance 15654, the ability to establish the location and the maximum size of uses that are not otherwise permitted in the R-12 through R-48 zones as set forth in subsection E. of this section expires December 31, 2010. The ability to establish the location and maximum size of uses that are not otherwise permitted in the NB zone or the R-18 zone as set forth in subsection F. of this section expires at the end of the effective period established in subsection K. of this section.

6. Any deadline set forth in this subsection shall be adjusted to include the time for appeal of all or any portion of the project approval.

N.1. By December 31, 2006, the director shall prepare and submit to the council a report on the pilot programs that:

a. describes and evaluates the pertinent preliminary results from the demonstration projects; and

b. recommends changes, based on the evaluation, which should be made to the county processes and ordinances.

2. If only insufficient or inconclusive data are available when this report is due, the director shall provide an interim status report and indicate the date a subsequent report or reports will be transmitted to fully evaluate outcomes of the demonstration projects. (Ord. 16099 § 1, 2008: Ord. 15654 § 1, 2006: 14662 § 1, 2003).

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